

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA  
CASE NO. 18-80122-CR-DMM

UNITED STATES OF AMERICA,

Plaintiff,

NOVEMBER 30, 2018

vs.

WEST PALM BEACH, FLORIDA

ARMAN ABOVYAN, M.D.,

DAY V OF VIII

Defendant.

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TRANSCRIPT OF JURY TRIAL PROCEEDINGS  
BEFORE THE HONORABLE DONALD M. MIDDLEBROOKS  
UNITED STATES DISTRICT JUDGE

APPEARANCES:

FOR THE GOVERNMENT: MARIE VILLAFANA, AUSA  
ALEXANDRA CHASE, AUSA  
Office of U.S. Attorney  
400 Australian Avenue  
West Palm Beach, Florida 33401

FOR THE DEFENDANT: DAVID J. JOFFE, ESQ.  
110 se 6TH Street  
Suite 1700  
Fort Lauderdale, Florida 33301

HOWARD J. SCHUMACHER, ESQ.  
1 East Broward Boulevard  
Suite 700  
Fort Lauderdale, Florida 33301

REPORTED BY: DIANE MILLER, RMR, CRR, CRC  
Official Court Reporter  
West Palm Beach, Florida 33401  
561-514-3728  
diane\_miller@flsd.uscourts.gov

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P-R-O-C-E-E-D-I-N-G-S

THE COURT: Okay, please invite the jury in.

(Jury in at 9:01 a.m.)

THE COURT: Good morning, welcome back; please be seated.

Thank you for your promptness. I'm glad all of you found parking places. It was probably tough this morning. They actually brought in 80 jurors on another trial that's starting and scheduled to be longer than this one.

You may have noticed, from time to time in this case, I have pushed the lawyers to finish their questioning; probably most dramatically yesterday in Mr. Schumacher's cross-examination, and I want to explain my thinking on this.

Before the trial, I had a hearing with the lawyers and the parties, and we talked about the length of the trial, the witnesses that were going to be called, how long it was going to take.

Considering their views, but also the demands on the Court's resources, particularly a jury's time, I set some limits on the length of the trial consistent with the schedule I outlined to you at the beginning. And so the time limits I set were less than either side wanted, they wanted more time, but I based it on my experience in other cases and also their views and the number of witnesses that they called, and so we outlined some time limits, and I'm enforcing those time limits

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1 and plan to complete the trial on the schedule we outlined to  
2 you.

3 I don't want to, however, interfere with the content  
4 of their presentations. So what I'm worried about is time, not  
5 content. I want them to be able to present their case,  
6 vigorously cross-examine, but I also want to finish the case on  
7 time. I don't want either side to run out the clock on the  
8 other side and so lawyers almost always have more to say,  
9 and -- but we need to adhere to the schedule.

10 At the end of the trial in my instructions, I will  
11 tell you that you should not assume from anything that I've  
12 said that I have any opinion about any factual issue in the  
13 case. Except for my instructions to you on the law, you should  
14 disregard anything I may have said during the trial in arriving  
15 at your own conclusions, and that includes what I'm doing in  
16 terms of time limits.

17 I'm pushing the lawyers to meet a schedule, not to  
18 interfere with their presentations. And so I just want to make  
19 sure you all understand that, and it requires them to  
20 efficiently put on their cases, and it requires them to  
21 cooperate and work together to the degree they can. I mean,  
22 they are representing adversaries, and you have seen some of  
23 that, but we are also going to finish on time.

24 With that, let's start.

25 MS. CHASE: Thank you, Your Honor. May I have the

1 document camera, please.

2 AGENT JOANNE WRIGHT, GOVERNMENT WITNESS, PREVIOUSLY SWORN.

3 DIRECT EXAMINATION

4 BY MS. CHASE:

5 Q. Good morning, Agent Wright. You are, of course, still  
6 under oath.

7 A. Yes.

8 Q. Yesterday, we were discussing Exhibit 4009, which was  
9 admitted yesterday, and let me zoom in.

10 All right. And please remind the jury what  
11 Government's Exhibit 4009 was.

12 A. It is a summary of the deposits into the Reflections  
13 Treatment Center account from the time period of December 1st,  
14 2015 to December 31st, 2016.

15 Q. Can you remind the jury how you broke out the types of  
16 deposits here.

17 A. One column is for insurance proceeds and the other column  
18 is any other type of deposit.

19 Q. So I'm now showing you page 29 of Government's Exhibit  
20 4009, and so for that time period, what was the sum total of  
21 the insurance proceeds?

22 A. \$3,132,806.13.

23 MS. CHASE: May I approach the witness, Your Honor?

24 THE COURT: Yes.

25

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1 BY MS. CHASE:

2 Q. Agent Wright, I just handed you what I marked as Government  
3 Exhibit 4010, so do you recognize that?

4 A. Yes, I do.

5 Q. What is it?

6 A. A summary of insurance payments to Reflections Treatment  
7 Center and Smart Lab for the period of December 1st, 2015,  
8 through December 30th, 2016. And I believe this says Exhibit  
9 4-0-1-2.

10 (Evidence identified as Government Exhibit No. 4012.)

11 BY MS. CHASE:

12 Q. Did you prepare this summary exhibit?

13 A. I did.

14 Q. Were the underlying records from which you prepared that  
15 too voluminous to examine here in court today?

16 A. Yes.

17 MS. CHASE: Your Honor, at this time, I move Exhibit  
18 4010 into evidence.

19 MR. JOFFE: No objection.

20 THE COURT: All right. I think that's already in;  
21 4010 I show as already --

22 MS. CHASE: Excellent, Your Honor. Thank you.

23 THE COURT: She said something about 4002. That  
24 isn't what this is, right?

25 THE WITNESS: It says 4-0-1-2 on the sticker.

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1 MS. CHASE: I apologize, Your Honor, that's because I  
2 gave you the wrong exhibit number. That's my fault. This is  
3 Government Exhibit 4-0-1-2.

4 THE COURT: All right. And is there no objection on  
5 that one?

6 MR. JOFFE: No objection, Your Honor.

7 THE COURT: That is admitted.

8 MS. CHASE: Thank you, Your Honor.

9 (Evidence admitted as Government Exhibit No. 4012.)

10 BY MS. CHASE:

11 Q. Okay. So we are looking at Government Exhibit 4012 now. I  
12 just got excited, now everyone can verify.

13 Okay. And can you explain to the jury this summary  
14 that you prepared.

15 A. Okay. The first part is the insurance proceeds deposited  
16 to Reflections Treatment Center and that figure came from the  
17 previous summary that we looked at of the deposit analysis.

18 The second part is insurance payments to Smart Lab.  
19 This is based on records we received from Smart Lab based on  
20 their billing records.

21 Q. All right. What is the total of those two sums?

22 A. \$6,030,195.63.

23 Q. And again, this figure for Reflections matches the sum for  
24 the insurance proceeds on page 29 of Government Exhibit 4009?

25 A. Yes.

1 MS. CHASE: Your Honor, now may be a good point to  
2 remind the jury of the instruction you gave yesterday.

3 THE COURT: All right. Remember at the beginning I  
4 said some evidence is admitted for only a limited purpose and  
5 that I would advise you on those occasions and we are coming up  
6 to that evidence in this witness's testimony.

7 You're about to hear evidence of acts of the  
8 Defendant. You must not consider this evidence to decide if  
9 the Defendant committed the acts charged in the indictment, but  
10 you may consider this evidence for other very limited purposes.

11 If you find beyond a reasonable doubt from other  
12 evidence that the Defendant committed the acts charged in the  
13 indictment, then you may consider this evidence which -- to  
14 decide whether the Defendant had the state of mind or intent  
15 necessary to commit the crime charged in the indictment; the  
16 defendant had a motive or the opportunity to commit the acts  
17 charged in the indictment; or whether the defendant committed  
18 the acts charged in the indictment by accident or mistake.

19 MR. JOFFE: Your Honor, we would raise the same  
20 objection we raised previously.

21 THE COURT: Right.

22 MS. CHASE: Thank you, Your Honor.

23 THE COURT: Does that block you all? Are you all  
24 right on this, the boxes are okay?

25

1 BY MS. CHASE:

2 Q. Agent Wright, I just placed three boxes in front of the  
3 jury on the table here, and these three boxes are Government  
4 Exhibit 4003, which was admitted yesterday. What are these  
5 records?

6 A. These are the bank records we received from Chase Bank for  
7 Dr. Abovyan.

8 Q. And so now we kind of have some visualization of the  
9 voluminous nature of these records, correct?

10 A. Correct.

11 Q. I just handed you what I previously marked for  
12 identification as Government Exhibit 4011. Do you recognize  
13 that?

14 A. I do.

15 Q. What is it?

16 A. This is a summary of the bank account, the Chase account  
17 ending in 9373, for Arman Abovyan, MD, LLC.

18 (Evidence identified as Government Exhibit No. 4011.)

19 BY MS. CHASE:

20 Q. And is that one of the accounts included in Government  
21 Exhibit 4003?

22 A. It is.

23 Q. And judging from these three boxes, this would also be too  
24 voluminous to examine in court.

25 A. Yes.

1 MS. CHASE: Your Honor, at this time, I move to admit  
2 Government Exhibit 4011.

3 MR. JOFFE: No objection, Your Honor.

4 THE COURT: 4011 is admitted.

5 (Evidence admitted as Government Exhibit No. 4011.)

6 MS. CHASE: All right. I'm now publishing Government  
7 Exhibit 4011 to the jury.

8 BY MS. CHASE:

9 Q. So we see here 4011. Now, we are looking at page one of  
10 Government Exhibit 4011, can you just walk the jury through how  
11 you prepared this summary.

12 A. Basically, this sheet is tied to another spreadsheet where  
13 all of the individual items were entered from the account; the  
14 deposit items, the withdrawal items.

15 Once that summary is completed, you can do what is  
16 called a pivot chart, and it takes any like items, so anything  
17 with the same name, it will go ahead and bring onto another  
18 spreadsheet, which is this sheet in front of you, and it will  
19 total all of the transactions for that particular item. So if  
20 you look at the line item, it will show you the sum of all of  
21 the deposits or all of the withdrawals from that source or the  
22 payee.

23 MR. JOFFE: Judge, can we get a timeframe for this, I  
24 don't see that on here.

25 MS. CHASE: We are about to get to that, Your Honor.

1 MR. JOFFE: Thank you.

2 BY MS. CHASE:

3 Q. So what we are looking at on page one is the first page of  
4 your pivot chart.

5 A. Yes.

6 Q. And go to page 21 of Government Exhibit 4011, what are we  
7 looking at here?

8 A. This is the spreadsheet that that pivot chart is based  
9 from.

10 Q. Okay. And what is the timeframe on which this starts?

11 A. January 2nd, 2015.

12 Q. And I see here that Government Exhibit 4011 goes all of the  
13 way to page 138.

14 A. Correct.

15 Q. And so going to 138, what is the final date of this?

16 A. July 31st, 2018.

17 Q. So in pages 21 through 138, you have summarized, in  
18 chronological order, all of the activity on this account.

19 A. Yes.

20 Q. And in pages one through 19 -- or rather one through 21 of  
21 Government Exhibit 4011, are your pivot chart then categorizing  
22 by the actual person or business.

23 A. Right.

24 Q. All right. I'm going to page 20 of Government Exhibit 4011  
25 and at the bottom here, we have a grand total, and let me zoom

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1 out so you can see the entirety of the sheet, hopefully --  
2 okay.

3 So how much was deposited into the account during  
4 this timeframe?

5 A. \$3,000,136 -- I'm sorry, \$3,136,561.26.

6 Q. How much was withdrawn?

7 A. \$3,124,023.93.

8 Q. Did you also prepare a summary of a particular type of  
9 withdrawal from these accounts?

10 A. I did.

11 Q. Agent Wright, I have just handed you what I have previously  
12 marked for identification as Government Exhibit 2. Do you  
13 recognize that?

14 A. I do.

15 Q. What is it?

16 A. It's a summary of casino transactions from the same Arman  
17 Abovyan, MD, LLC account.

18 (Evidence identified as Government Exhibit No. 2.)

19 BY MS. CHASE:

20 Q. So those were contained in the records we just summarized  
21 in Government Exhibit 4011?

22 A. Yes.

23 MS. CHASE: Your Honor, at this time, I move to admit  
24 Government Exhibit 2.

25 MR. JOFFE: No objection.

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1 THE COURT: Exhibit 2 is admitted.

2 MR. JOFFE: Wait a minute; I'm sorry, Judge. I would  
3 renew the same objection.

4 THE COURT: All right. That objection is overruled  
5 for the reasons we earlier discussed.

6 (Evidence admitted as Government Exhibit No. 2.)

7 BY MS. CHASE:

8 Q. All right, Agent Wright, I'm going to start on page two of  
9 Government Exhibit 2. When you were analyzing Dr. Abovyan's  
10 account, what was the particular type of transaction that stood  
11 out to you?

12 A. These are debit card withdrawals made at various casinos.  
13 The main ones are Seminole Coconut Creek.

14 Q. And do you recall the timeframe of these withdrawals?

15 A. Let's see, it starts at January 5th, 2015 and if you look  
16 at the end, I believe it goes all the way through July of 2018.

17 Q. So if we go to page 11.

18 A. Right, July 19th, 2018.

19 Q. All right. And then did you break this out in a further  
20 summary by year?

21 A. Yes.

22 Q. All right. So I'm going to go to page one of Government  
23 Exhibit 2. So you broke out this particular type of withdrawal  
24 per year, correct?

25 A. Correct.

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1 Q. What was the amount withdrawn for the year 2015?

2 A. \$178,248.85.

3 Q. What was the amount of money withdrawn at casinos in 2016?

4 A. \$172,198.85.

5 Q. What was the amount of money withdrawn at casinos in 2017?

6 A. \$190,104.54.

7 Q. What was the amount withdrawn in 2018?

8 A. \$122,501.60.

9 Q. What was the total for this time period?

10 A. \$663,053.84.

11 Q. And here there is a note. What was that actual time period  
12 for the jury, please.

13 A. January 3rd, 2015 through July 19, 2018.

14 Q. Finally, returning to Government Exhibit 4012, this was for  
15 the time period of December 1st, 2015, through December 30,  
16 2016, correct?

17 A. Correct.

18 Q. And again, what type of accounts -- or deposits, rather,  
19 were summarized in Government Exhibit 4012?

20 A. These are insurance proceeds deposited to Reflections  
21 Treatment Center and insurance payments made to Smart Lab.

22 Q. Did you also perform an analysis limiting those proceeds  
23 and payments to the time period in which Dr. Abovyan was  
24 actually employed at Reflections?

25 A. Yes.

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1 Q. I've just handed you what I previously marked for  
2 identification as Government Exhibit 4013, I believe.

3 A. Correct.

4 Q. Do you recognize that?

5 A. I do.

6 Q. What is it?

7 A. It is -- it's the same summary as before, just the time  
8 period was limited, so we have insurance proceeds deposited to  
9 Reflections --

10 (Evidence identified as Government Exhibit No. 4013.)

11 MR. JOFFE: What was the time period?

12 THE WITNESS: From the time period of July 20th,  
13 2016, to December 30th, 2016.

14 MR. JOFFE: Thank you.

15 MS. CHASE: Your Honor, at this time I move to admit  
16 Government Exhibit 4013.

17 MR. JOFFE: No objection, Your Honor.

18 THE COURT: That's admitted.

19 (Evidence admitted as Government Exhibit No. 4013.)

20 BY MS. CHASE:

21 Q. So staying on 4012 for the time being, when we talk about  
22 the insurance payments to Smart Lab, you also did receive the  
23 records from Smart Lab, correct?

24 A. Yes, ma'am.

25 Q. Were these all the insurance payments Smart Lab received

1 during that timeframe or did you limit it to the treatment  
2 centers discussed here?

3 A. Just the treatment centers discussed here.

4 Q. Okay. So these are limited to payments that Smart Lab  
5 received for Reflections Treatment Center and Journey to  
6 Recovery?

7 A. Correct.

8 Q. All right. So I'm now publishing Government Exhibit 4013  
9 to the jury.

10 All right. When we limit this to the timeframe in  
11 which Dr. Abovyan was employed at Reflections, what was the  
12 total of insurance proceeds deposited to Reflections?

13 A. \$1,035,684.90.

14 Q. And what was the total of the insurance payments deposited  
15 to Smart Lab on behalf of Reflections and Journey?

16 A. \$1,350,163.64.

17 Q. And what was that total?

18 A. \$2,385,848.54.

19 MS. CHASE: May I have a moment, Your Honor?

20 I pass the witness.

21 THE COURT: Cross-examination.

22 MR. JOFFE: Thank you, Your Honor.

23 CROSS-EXAMINATION

24 BY MR. JOFFE:

25 Q. Ma'am, good morning.

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1 A. Good morning.

2 Q. Ma'am, let me ask this question: How long did it take you  
3 to summarize all of the bank records for Reflections?

4 A. Quite a while.

5 Q. How many hours do you think?

6 A. I mean hours, probably worked on it full-time for a couple  
7 months, like if you added up all of the hours put in.

8 Q. Would it be fair to say hundreds of hours?

9 A. Probably, yes.

10 Q. How much time do you think you spent going through  
11 Dr. Abovyan's bank records?

12 A. It quite a lot, maybe half of that.

13 Q. When you finished going through Dr. Abovyan's records, did  
14 anyone else oversee the work that you had done just to make  
15 sure that the numbers were correct?

16 A. I didn't have anyone doublecheck it, but I do make sure I  
17 have a check balance. I have a starting balance, an ending  
18 balance and I make sure those tie together, so I know I don't  
19 have a numerical error.

20 As far as entering is the data, I'm human, I could  
21 make a mistake in the entry, but overall, I did go back and  
22 check my work.

23 Q. When you add these numbers, do you do it with a calculator  
24 or does a computer do that for you?

25 A. It is entered into an Excel spreadsheet, which has its own

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1 calculation.

2 MR. JOFFE: May I approach, Your Honor?

3 THE COURT: Yes.

4 BY MR. JOFFE:

5 Q. Ma'am, as to Government's exhibits -- the three boxes,  
6 Exhibits 4003 that have already been admitted, those records  
7 are specifically Chase Bank records, correct?

8 A. Correct.

9 Q. Okay. And those are Chase Bank records as they relate to  
10 Dr. Abovyan, is that correct?

11 A. Yes.

12 Q. As they relate to Dr. Abovyan's medical practice?

13 A. Yes.

14 Q. Okay. So in 4003, what is there are the business account  
15 records, correct?

16 A. I believe those are all of the records that we received  
17 from Chase, so there could be -- I don't recall, but there  
18 could be a personal account in there as well.

19 Q. Okay. Would it be fair to say that the majority of the  
20 monies went through the operating account for the business --

21 A. Yes.

22 Q. -- and then were withdrawn from the operating account?

23 Q. Now, there is no allegation of any tax evasion, correct?

24 A. That was not within the scope of my investigation.

25 Q. Okay. There is no allegation of money laundering, correct?

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1 A. Again, that was not within the scope here. I didn't see  
2 anything to that effect.

3 Q. Okay. And the monies that were deposited into  
4 Dr. Abovyan's operating account, there are monies coming in  
5 through his two offices, correct?

6 A. I'm not sure which offices because it didn't -- it is just  
7 one operating account, so I'm not sure which offices the  
8 deposits came from.

9 Q. Let me ask it a different way.

10 You saw that Dr. Abovyan would be paid by insurance  
11 companies, correct?

12 A. Correct.

13 Q. Like Aetna or companies he had contracts with, correct?

14 A. I'm not sure if he had contracts, but I did see insurance  
15 deposits going into those accounts.

16 Q. Those were lawful and legal deposits, correct?

17 A. As far as I know. Again, that wasn't within the scope of  
18 our investigation.

19 Q. Right. But those deposits from the insurance companies of  
20 Dr. Abovyan had nothing to do with insurance deposits that went  
21 to Reflections, correct?

22 A. Correct.

23 Q. Okay. And did it appear that patients sometimes would  
24 private pay as well out-of-pocket?

25 A. There were a lot of deposits from individuals. I'm not



1 sure what those payments were for, but they were deposited into  
2 the operating account.

3 Q. And did you check to see if those individuals were also  
4 patients of Dr. Abovyan?

5 A. I did not because again, we did not have Dr. Abovyan's  
6 records from his private practice.

7 Q. Okay. And as you sit here today, do you recall if from --  
8 you started looking at 2015, correct?

9 A. Correct.

10 Q. And you ended with 2018.

11 A. Correct.

12 Q. And did you see an increase in Dr. Abovyan's salary or  
13 income, his gross income?

14 A. I did not separate his account by year. That's one thing I  
15 did not do, so I don't know if his income increased throughout  
16 that time period.

17 Q. Okay. You are not able to -- okay.

18 Are you able to say with specificity to the members  
19 of the jury -- sorry, my cold is still bothering me -- the  
20 amounts of money that were deposited total in 2015, total in  
21 2016, total in 2017, total in 2018 into Dr. Abovyan's operating  
22 account?

23 A. It would be possible to get that figure, but I don't have  
24 that figure today.

25 Q. Okay, that's fair. But based upon the information you

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1 have, you could do that.

2 A. Right.

3 Q. And the summary charts that you created on the Excel, you  
4 obtained by going through all of this material, correct?

5 A. Correct.

6 Q. Was there any additional material that you referred to?

7 A. I'm not sure I know what you mean. I had the bank records.

8 Q. Where there any other banks that provided material, other  
9 than Chase?

10 A. No. For Dr. Abovyan, we just had Chase.

11 Q. That was the sole bank that Dr. Abovyan banked at?

12 A. That, I'm not clear on. We just know that was the bank he  
13 deposited his checks from Reflections into.

14 Q. Now, your review of those bank records, just so we are  
15 clear, as to the three boxes for Government's Exhibit 4003, you  
16 have looked at each piece of paper, correct?

17 A. Yes.

18 Q. I'm sorry. Was that scanned as well?

19 A. It was scanned as well, yes.

20 Q. Did the banks provide this material to you in an electronic  
21 format and you printed it out?

22 A. No, they -- Chase is one of the banks that actually  
23 provides hard copies, and it is up to you to scan the  
24 information and put it in.

25 Q. And organize everything.

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1 A. And organize it, correct.

2 Q. In your review of every piece of paper in Government's  
3 Exhibit 4003 that's been previously admitted, you did not see  
4 any money being paid out to Kenneth Chatman.

5 A. That is correct, I did not.

6 Q. You did not see any money being paid out to Laura Chatman,  
7 his wife, correct?

8 A. I did not.

9 Q. You did not see any money being paid to a Stefan Gatt.

10 A. I have to look at my summary again, but I don't believe so.

11 Q. Okay. Now, you would have seen payments to the nurse  
12 practitioners, some of whom have testified here, correct?

13 A. Yes.

14 Q. And you know they have testified because you have been in  
15 and out of court and you know they are a Government witness,  
16 correct?

17 A. Right.

18 Q. And that's reflected within these bank records, salary  
19 payments, correct?

20 A. Yes.

21 Q. Okay. Does it also show 941 payments, Social Security  
22 payments?

23 A. I believe there were some -- I know there were some tax  
24 payments. I would have to look at my summary again to see  
25 which particular entities were paid.

1 Q. What about health insurance payments?

2 A. I believe so, yes.

3 Q. And malpractice insurance payments for Dr. Abovyan's  
4 medical license.

5 A. Yes.

6 Q. Okay. Were there car payments?

7 A. I don't recall, I would have to look at my summary.

8 Q. And in looking at the records as well, are you able to tell  
9 the members of the jury how much money Dr. Abovyan deposited in  
10 his account between July 2016 and December of 2016 when  
11 Dr. Abovyan actually worked at Reflections?

12 A. Again, I don't have it broken down by year that way, that's  
13 something that could be done. I just know the amount of the  
14 checks that he received from Reflections and Kenny Chatman.

15 Q. Okay. And do you know how much money between July 2016 and  
16 December of 2016, the timeframe within the indictment, that  
17 Dr. Abovyan actually spent out of the operating account?

18 A. Again, I would have to break that account down by year and  
19 get that figure.

20 Q. Okay.

21 A. I don't have it today.

22 Q. Would it be fair to say that a lot of the withdrawals, I  
23 guess you call them, from the Seminole Casino were done prior  
24 to his -- Dr. Abovyan's employment at Reflections?

25 A. Yes.

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1 Q. Okay. Would it be fair to say that a majority of the  
2 withdrawals were taken prior to the time period that  
3 Dr. Abovyan was employed at Reflections?

4 A. They were -- yes, the majority of them were from before,  
5 but the same pattern continued the entire time he was there, so  
6 you have the same activity during that whole time.

7 Q. Right. And it is lawful and legal, is it not, in the State  
8 of Florida to go to a casino and gamble?

9 A. Yes.

10 Q. It is lawful and legal to spend your own money at the  
11 casino.

12 A. Yes.

13 Q. It is lawful and legal to lose your money at the casino.

14 A. It is.

15 Q. Right? It is lawful and legal to win money at a casino.

16 A. Yes.

17 Q. And if you win money at the casino, the casinos typically  
18 report it -- or they take out the tax money you owe, correct,  
19 if it is a large number in some cases?

20 A. I'm not exactly sure what their laws are.

21 Q. Do you gamble?

22 A. I don't.

23 Q. Have you ever gambled?

24 MS. CHASE: Objection, relevance.

25 THE COURT: Sustained.

1 BY MR. JOFFE:

2 Q. You don't have any personal bias against people that  
3 gamble, do you?

4 A. No, I don't.

5 Q. Okay. Now -- so the conduct that Dr. Abovyan was engaging  
6 in at the casino itself was lawful and legal, correct?

7 A. Yes.

8 Q. And what was the purpose of you going through all of this  
9 material?

10 A. Well, we wanted to see if he had any other relationships  
11 with any other treatment centers; if there was evidence of  
12 kickbacks. We just subpoenaed records just to see basically  
13 what was going on.

14 Q. And you found no evidence of kickbacks, correct?

15 A. Correct.

16 Q. In the financial records, is that correct?

17 A. Yes.

18 Q. And that's consistent with individuals that the Government  
19 has spoken to, correct?

20 A. Yes.

21 Q. And you found no evidence of Dr. Abovyan being paid by any  
22 other treatment centers, correct?

23 A. Correct.

24 Q. And the only evidence in these bank records for -- how many  
25 years was this, four years, five years of records?

1 A. About four years.

2 Q. Okay. Dr. Abovyan was never employed with any other  
3 treatment facility, correct?

4 A. Not that I could see.

5 Q. Okay. Now, the pattern of spending of Dr. Abovyan at the  
6 casinos year to year stayed about the same, did it not?

7 A. About the same, up and down; it varied.

8 Q. You provided some numbers, correct?

9 A. Yes.

10 Q. And I believe you said in 2015, Dr. Abovyan spent  
11 \$178,248.85 at the casino, correct?

12 A. I would have to look at my sheet to know.

13 Q. I believe that is reflected in Government's Exhibit 2.

14 MR. JOFFE: May I approach the witness, Your Honor?

15 THE COURT: Sure.

16 BY MR. JOFFE:

17 Q. Let me show you what is previously been admitted Government  
18 Exhibit 2. Take a look and if it is there.

19 A. What was the year again, 2015?

20 Q. Yes, ma'am.

21 A. \$178,248.85.

22 Q. That's the amount of money that Dr. Abovyan withdrew at a  
23 casino, correct?

24 A. Yes.

25 Q. And in 2015, you are not able to tell the members of the

1 jury at this point what the gross income -- well, what the  
2 gross receivables were for his medical practice in 2015.

3 A. Not at this time, no.

4 Q. Okay. Would that be helpful to your analysis?

5 A. I mean, for the purposes that we were using it for --

6 Q. Okay.

7 A. -- at the time, no we weren't investigating his practice,  
8 so we were looking at Reflections.

9 Q. Would it be helpful for the members of the jury to see how  
10 much money was spent at the casino versus how much money in the  
11 total universe came in to Dr. Abovyan through his practice?

12 A. It could be.

13 Q. I'm sorry?

14 A. It could be, yes.

15 Q. Okay. So as you sit here today, you are not able to tell  
16 us what percentage this \$178,000 represents of the total money  
17 Dr. Abovyan earned in 2015, correct?

18 A. I can't do that today.

19 Q. Okay. Excuse me.

20 And you can refer to that record. In 2016, you  
21 testified Dr. Abovyan had spent \$172,198.85 also at the  
22 Seminole Casino.

23 A. Yes. I think there may have been a couple other random,  
24 like Caesars, Bellagio; but there are just a couple of  
25 transactions. I have to look at the other summary to see what



1 dates those would have fallen into.

2 Q. That number of 172,198.85 is for fiscal year 2016.

3 A. Yes.

4 Q. As you sit here now, you are not able to tell the members  
5 of the jury, at least now what percentage that represents of  
6 the total monies that he earned that year, right?

7 A. No. I can't break it down by year, I just have the total  
8 for that time period.

9 Q. Okay, that's fair.

10 And then in 2017, it goes -- the amount spent at the  
11 casino was 190,000 -- did you say 104?

12 A. Yes.

13 Q. 190,104 -- well, why don't you read it to us.

14 A. \$190,104.54.

15 Q. Okay. So that's an increase of how much money; 18,000?

16 A. Yeah.

17 Q. Okay. And then in fiscal year 2018, how much money did  
18 Dr. Abovyan spend at the casino?

19 A. \$122,501.60.

20 Q. And as it relates to either 2017 or 2018, as you sit here  
21 now, you are not able to tell the members of the jury what  
22 percentage of the total income that represents, correct?

23 A. I can't break it down by year, no.

24 Q. And the total amount that you gave of \$663,000, that was  
25 for how many years?

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1 A. That was for complete years of '15, '16, and 17. In 2018,  
2 we only go through July of 2018.

3 Q. So when you say through July, you start in January?

4 A. Correct.

5 Q. So January, February, March, April, May, June, July, seven  
6 months?

7 A. Correct.

8 Q. Up until the time what, Dr. Abovyan gets indicted?

9 A. No. That's the just time period we had the subpoena and we  
10 requested all records to present, and that was what was  
11 provide, so we have through July 2018 of the bank records.

12 Q. Okay. On its face, that number appears to be large,  
13 correct?

14 A. I guess it depends.

15 Q. Right, exactly. It is all relative, right?

16 So from 2015, '16, '17 and '18, as you sit here now,  
17 are you able to tell the members of the jury what was the total  
18 amount of money that Dr. Abovyan earned during that time  
19 period?

20 A. If I looked at my other sheet, I think it was --

21 Q. Is it in that exhibit?

22 A. His total amount that he earned during this time period?

23 Q. Yes, ma'am.

24 A. It is not in this exhibit, but it is in another exhibit.

25 MR. JOFFE: May I approach the witness, Your Honor?

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1 THE COURT: Yes.

2 BY MR. JOFFE:

3 Q. Feel free to look at that.

4 A. Okay. It is in Exhibit 4009.

5 Q. Thank you, ma'am. 4009, is that correct?

6 A. Yes.

7 Q. Okay. Now, that's the deposit analysis, correct?

8 A. Sorry, that's Reflections.

9 Q. Sorry.

10 A. Okay, it is in Exhibit 4011.

11 Q. Yes, ma'am. Is that the 4,000,000 number?

12 A. No. This is -- it's the deposit analysis -- or the bank

13 account analysis --

14 Q. Okay.

15 A. -- for Dr. Abovyan's account.

16 Q. Okay.

17 A. Do you want me to read the total deposits?

18 Q. Yes, ma'am.

19 A. Total deposits are \$3,136,561.26.

20 Q. Sounds correct?

21 A. Yes.

22 Q. And that's not how many years?

23 A. That's from -- the same time period, 2015 through July of

24 2018.

25 Q. So 2015, '16, '17, and seven months of '18, correct?

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1 A. Right.

2 Q. So almost four years.

3 A. Right.

4 Q. And this number, basically \$3.1 million, does that number  
5 seem reasonable to you for a licensed medical doctor and  
6 internist?

7 MS. CHASE: Objection, relevance.

8 THE COURT: Sustained.

9 MR. JOFFE: Okay.

10 BY MR. JOFFE:

11 Q. Does this number seem abnormal to you?

12 MS. CHASE: Objection, relevance.

13 BY MR. JOFFE:

14 Q. Now, if you --

15 THE COURT: Sustained.

16 BY MR. JOFFE:

17 Q. If you look at that total amount, the 3.1 million, okay,  
18 and you look at the total amount that Dr. Abovyan gambled  
19 during that time period, what percentage of that total was  
20 spent at the casino?

21 A. I think it comes out to about 21 percent.

22 Q. So 21 percent of his total gross income?

23 A. Right.

24 Q. Or net income, do you know?

25 A. This would be gross.

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1 Q. And that's out of the gross proceeds that were made while  
2 working as a physician, correct?

3 A. The proceeds that were deposited into his operating  
4 account.

5 Q. Okay. You said 21 percent?

6 A. Approximately.

7 Q. Of the total?

8 A. Right.

9 Q. So that left what, another 79 percent of the money  
10 available to him?

11 A. Correct.

12 Q. Okay. And there clearly was enough money, even if he spent  
13 that much money at the casino, for Dr. Abovyan to continue to  
14 eat and put a roof over his head, correct?

15 A. I would imagine. I haven't analyzed all of his personal  
16 expenses.

17 Q. Dr. Abovyan has never filed for bankruptcy, correct?

18 MS. CHASE: Objection, relevance.

19 THE COURT: Sustained.

20 BY MR. JOFFE:

21 Q. Well, in your review of the records, did you find that  
22 Dr. Abovyan was insolvent?

23 MS. CHASE: Objection, relevance.

24 THE COURT: Overruled.

25 A. Again, that wasn't within the scope of my examination. I

1 examined the Chase records, I don't know if he had other bank  
2 accounts. You know, my scope was limited to just this  
3 particular area.

4 BY MR. JOFFE:

5 Q. Right. Do you think that that would have been important  
6 information for the members of the jury to know?

7 A. It could be.

8 Q. Okay. Even if we subtract out -- let me ask this question,  
9 you can keep those number with you.

10 The Government's proof is that Dr. Abovyan made how  
11 much money during the five months that he worked at  
12 Reflections?

13 A. I believe it was \$73,600 from Reflections and the check  
14 from Kenny Chatman.

15 Q. Over a five month period?

16 A. Yes.

17 Q. What year?

18 A. 2016.

19 Q. If we subtract the 70,000 from the gross income that  
20 Dr. Abovyan earned in 2016, what is that number?

21 A. If we subtract 70,000 -- I guess I'm not understanding the  
22 question.

23 Q. Right. What I'm saying is that for 2016, that the  
24 Government has alleged and proved that Dr. Abovyan was paid  
25 \$70,000 for his employment at Reflections during five months,

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1 correct?

2 A. Correct.

3 Q. But also during that time period, Dr. Abovyan -- you have  
4 heard testimony Dr. Abovyan was running his two offices, seeing  
5 clients at the AFL, seeing clients at home, seeing clients at  
6 the hospital, correct?

7 A. Right.

8 Q. So Dr. Abovyan was earning income from different sources,  
9 correct?

10 A. Right.

11 Q. So my question to you is, if we subtract the 70,000 paid by  
12 Reflections, how much money is left over in that year?

13 A. A little over \$3 million.

14 Q. Okay. And is that enough money to live on?

15 A. I mean, I would have to see the expenses.

16 Q. Okay.

17 A. I really just know that's the total deposits. I don't have  
18 total analysis of all of his expenditures and things like that.  
19 I wouldn't be able to really give an answer to that.

20 Q. Why not?

21 A. I don't have all of his records from his practice, his  
22 ledgers, things like that. My scope of the investigation was  
23 limited to the examination of the Chase Bank accounts.

24 Q. Okay. Were there other bank accounts?

25 MS. CHASE: Objection, asked and answered.

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1 BY MR. JOFFE:

2 Q. During your investigation, did you learn that Dr. Abovyan  
3 banked at any other banks?

4 MS. CHASE: Objection, asked and answered.

5 THE COURT: I'm not sure that was the question;  
6 overruled.

7 THE WITNESS: I did not see any other banks.

8 BY MR. JOFFE:

9 Q. Okay. But you did a diligent search, correct?

10 A. I based -- we looked at where he deposited the checks from  
11 Reflections, and that's how we obtained the records of Chase  
12 Bank.

13 Q. Yes, ma'am.

14 A. I think he may have had a Wells Fargo mortgage, but I  
15 didn't see any other banks, just the Wells Fargo mortgage.

16 Q. Do you recall what the monthly mortgage payment was?

17 A. I don't recall. The mortgage payment was paid out of one  
18 of the other Chase accounts, I don't have that summary with me  
19 here today.

20 Q. Out of a personal account?

21 A. I believe so, yes.

22 Q. Which would be normal and appropriate, correct?

23 A. Correct.

24 Q. So there is no collusion between the operating and the  
25 personal and it makes it easier for tax purposes, correct?

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1 A. No.

2 Q. No, okay.

3 Now, in your analysis and your review in this case,  
4 do you know if Dr. Abovyan had any other money or income coming  
5 in, other than through his medical practice?

6 A. Not that I know of.

7 Q. Okay. And when you say not that you know of, what do you  
8 base that upon?

9 A. Well, I just -- I have the Chase records, that's what I  
10 base my analysis on. I saw monies coming in from, I guess, the  
11 hospital specialist, like a physician management group. There  
12 were payments coming in possibly from patients because there is  
13 a lot of individual checks.

14 Again, I really just looked at the Chase Bank  
15 account.

16 Q. That's the only bank account you found, correct?

17 A. From Chase, yes.

18 Q. Okay. But as you sit here now, you are not surmising or  
19 alleging that there is some other bank accounts floating around  
20 out there, correct, in his name?

21 A. Not that I know of.

22 Q. Okay. But as you sit here now, you are aware that there  
23 was no other money being paid to Dr. Abovyan, but for the money  
24 he was earning as a licensed medical doctor?

25 A. Not that I know of.

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1 Q. And the payments that you saw coming into Dr. Abovyan's  
2 operating account were coming from legitimate medical companies  
3 that were paying him to provide his services as a medical  
4 doctor.

5 A. Again, that wasn't within the scope of our investigation.  
6 I don't know if they were legitimate or not, I don't know  
7 anything about them really.

8 Q. All right. So your sole purpose was to just to tally the  
9 total amount of income earned during that time period, correct?

10 A. It was to look at the records, see if there was any other  
11 activity, if he was involved with any other treatment centers;  
12 as I said, look for kickbacks, you know, if anything else stood  
13 out. I saw the casino transactions, that's the one thing that  
14 drew my attention.

15 Q. That's the only thing that stood out, correct?

16 A. Correct, and the deposits from Reflections.

17 Q. Let me ask you, do you have a hobby other than work?

18 MS. CHASE: Objection, relevance.

19 THE COURT: Sustained.

20 BY MR. JOFFE:

21 Q. Do you know if Dr. Abovyan's hobby was to go to the casino  
22 and gamble?

23 A. I don't know.

24 Q. Okay.

25 A. I mean, it appears that way.

1 Q. I'm sorry?

2 A. It would appear that way from the transactions.

3 Q. And you have heard the testimony during the course of this  
4 trial that Dr. Abovyan was doing rounds in the hospitals every  
5 morning at 6:00 a.m.

6 A. Yes.

7 Q. And you heard testimony that Dr. Abovyan was excessively or  
8 extremely busy, correct?

9 A. Yes.

10 Q. You heard testimony that Dr. Abovyan worked very long  
11 hours.

12 MS. CHASE: Objection, relevance.

13 THE COURT: Sustained.

14 MR. JOFFE: Okay.

15 THE COURT: The jury heard the same testimony, so  
16 this doesn't advance the ball.

17 MR. JOFFE: Okay.

18 BY MR. JOFFE:

19 Q. Now, does it seem abnormal for someone to go to a casino  
20 and spend money gambling and eat there after work?

21 MS. CHASE: Objection, relevance.

22 THE COURT: Sustained.

23 MR. JOFFE: I have no further questions.

24 MR. SCHUMACHER: Wait.

25 MR. JOFFE: Wait, okay.

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1 (Discussion off the record between Defense Counsel.)

2 BY MR. JOFFE:

3 Q. Let me ask you one more question.

4 The amounts of money that Dr. Abovyan was withdrawing  
5 at the casino, was that also money being spent at the casino?

6 A. That, I don't know. I don't have the records from the  
7 casino.

8 Q. You did not pull the records from casino to see what  
9 Dr. Abovyan was actually spending at the casino?

10 A. I didn't believe it was relevant. If you are spending  
11 money at a casino, it is just an expenditure; nevertheless, you  
12 are gambling, eating, making purchases. It is where you are  
13 spending money, and money was spent there so --

14 Q. You didn't check to see if he was taking family out to  
15 dinner or friends out to dinner or anything like that?

16 A. I didn't really think it was relevant to the investigation.

17 Q. And would it be fair to say that the amounts of money that  
18 Dr. Abovyan was spending at the casino did not materially  
19 change from year to year?

20 A. It fluctuated. I mean, we went through the figures. I'm  
21 not exactly sure what the definition of material would be in  
22 that case, but it did fluctuate.

23 Q. We saw fluctuation one year of what, an 18,000 increase?

24 A. Right.

25 Q. Okay. But other than that, it basically stayed the same

1 and then it went down in '17, correct?

2 A. I would have to look at the figures.

3 Q. Certainly, take a look.

4 A. In '17, it actually went up.

5 Q. Okay.

6 A. And in 2018, I only have a partial year, so that's why the  
7 figure would be lower.

8 Q. So let's talk about the time period that Dr. Abovyan was  
9 employed at Reflections. Did you see a spike all of a sudden  
10 in spending at the casino?

11 MS. CHASE: Objection, asked and answered.

12 THE COURT: Yeah, didn't you cover this? You went  
13 throughout year by year.

14 MR. JOFFE: Not just this time -- only the five-month  
15 period.

16 BY MR. JOFFE:

17 Q. Did you see a spike in the spending at the casino by  
18 Dr. Abovyan?

19 A. In 2016?

20 Q. No, only during the five month period he was employed at  
21 Reflections.

22 A. I would have to look at that by period. I just have it  
23 broken down by that year.

24 Q. You didn't look at that in your analysis?

25 A. I mean, I have it broken down by year, that's --

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1 Q. I understand --

2 A. It stays pretty steady. If you look by month, just  
3 generally glancing through the records, it is pretty -- you  
4 know, it may fluctuate a little bit, but it is --

5 Q. It is consistent?

6 A. It is pretty consistent.

7 Q. Let me ask this question: During the time period that  
8 Dr. Abovyan was employed at Reflections, you didn't see, all of  
9 a sudden, a huge spike in spending at the casino?

10 A. No.

11 MR. JOFFE: Very good. I have no further questions.  
12 Thank you, Judge.

13 THE COURT: Is there any redirect?

14 MS. CHASE: Yes, Your Honor.

15 REDIRECT EXAMINATION

16 BY MS. CHASE:

17 Q. All right, Agent Wright. Government Exhibit 2 is the  
18 summary of cash withdrawals at a casino, correct, withdrawals  
19 from a debit card?

20 A. Right, it was made with a debit card.

21 If you look at a lot of these transactions, they are  
22 preceded by a brief GCA, which is Gobal Cash Access. That is  
23 like a provider at the casino that provides cash advances, so  
24 these would indicate that they are cash advances at the casino.

25 Q. So where there are cash advances, you can't further trace

1 the manner in which that was spent, correct?

2 A. Right.

3 Q. Now, Government Exhibit 4011, what does that say at the  
4 top?

5 A. "Bank account summary Chase Account number 450-26-9373,  
6 Arman Abovyan, MD, LLC."

7 Q. And so this was the summary of his business account,  
8 correct?

9 A. Correct.

10 Q. And Government Exhibit 2 was drawn from which account?

11 A. The business.

12 Q. So all of the casino transactions that we saw were drawn  
13 from Dr. Abovyan's business account?

14 A. Correct.

15 MS. CHASE: I have no further questions.

16 THE COURT: All right. Thank you, Ms. Wright.

17 (Witness excused.)

18 MS. CHASE: Your Honor, before we call the next  
19 witness -- I apologize, Your Honor.

20 Pursuant to Federal Rule of Evidence 9024, Your  
21 Honor, we would move to admit Government Exhibit 19. It is  
22 accompanied by a certification labeled Government Exhibit 20,  
23 and I can approach the Court with a copy, if Your Honor would  
24 like.

25 (Evidence identified as Government Exhibits 19 and

1 20.)

2 THE COURT: Have you seen this, is there an issue?

3 MR. SCHUMACHER: Yes, I have seen it previously, but  
4 not today, Judge.

5 MR. JOFFE: No objection, Your Honor.

6 THE COURT: Nineteen is admitted without objection.

7 (Evidence admitted as Government Exhibit No. 19.)

8 MS. CHASE: Your Honor, I would seek to publish this  
9 to the jury, at this time.

10 THE COURT: All right.

11 MS. CHASE: This is an e-mail from Aron Tendler,  
12 which is listed on page one of Government Exhibit 19 in reverse  
13 order, tendleraron@aron.tender@gmail.com, and it is sent to an  
14 account entitled MPI Complaints, addressed to the Office of the  
15 Inspector General Agency for Healthcare Administration, dated  
16 July 17th, 2016, Re: Reflections Treatment Center, 5100  
17 Coconut Creek Parkway, Margate, Florida, 33063.

18 And it states: "Please address this matter or  
19 forward it to the appropriate authorities.

20 "After three urgent pleas from Reflections Treatment  
21 Center's Assistant Clinical Director Tina Barbuto, I agreed to  
22 work as the medical director for Reflections Treatment Center  
23 in collaboration with Adam Arroyo ARNP. I functioned as their  
24 medical director for one month, June 15th to July 15th, 2016.

25 In that span of time I became aware of multiple systemic

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1 irregularities that affect patient care and billing.

2 "Adam Arroyo, ARNP, and I informed the Clinical  
3 Director Brad Cohen, Assistant Clinical Director Tina Barbuto,  
4 and "Owner" Kenny Chatman of the issues with suggestions to  
5 meet and change their protocols on several occasions. They  
6 were not interested and terminated our services. I am sending  
7 this note to fulfill my obligation to report per Florida  
8 statutes.

9 (1) Patients are admitted either PHP, (partial  
10 hospitalization program) or IOP (intensive outpatient program)  
11 without notifying the provider at the time of admission to, A,  
12 authorize and be made aware of the new patient admission, and  
13 B, obtain initial medically necessary treatment and medication  
14 orders.

15 (2) Patients are discharged from PHP/IOP without  
16 notifying and obtaining provider's orders.

17 (3) The majority of patients had no initial  
18 psychiatric evaluation and no psychiatric provider follow-up  
19 notes for several months.

20 (4) For several months, the majority of patients had  
21 no or adequate medical history and physical, (H&P) notes.

22 (5) Multiple patients admitted prior to June 15th,  
23 2016, and whose medical records were missing the necessary  
24 initial psychiatric evaluations/medical H&Ps were  
25 "administratively discharged" by the facility only to be

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1 readmitted days thereafter.

2 Page two: "Patients who were admitted from weeks to  
3 several months prior to June 15th, 2016, with ongoing  
4 medications that required therapeutic drug level monitoring;  
5 i.e., lithium, had no initial or subsequent laboratory drug  
6 levels performed.

7 (7) Patients had multiple, three times a week,  
8 weekly urine toxicology confirmations without any preceding  
9 urine drug screens. Patients admitted for several months only  
10 had three urine drug screens, but they had numerous urine  
11 toxicology confirmations.

12 "Confirmations were routinely being performed on  
13 negatives and positives, including prescriptions that patients  
14 are known to be taking, such as Trazodone and buprenorphine.

15 (8) "Most of the patients were given allergy testing  
16 without any clinical rationale. On two occasions, I and two  
17 occasions Arroyo, ARNP were asked to sign standing orders for  
18 allergy testing to be performed for newly admitted patients.

19 (9) "I was asked to sign standing orders for DNA  
20 testing without clinical rationale.

21 (10) "Reflections Treatment Center uses two separate  
22 confirmation labs, Smart Lab, Palm Beach Gardens, Florida, and  
23 Allied Lab Clinical Diagnostics, Dallas, Texas, with no clear  
24 process.

25 (11) "Reflections Treatment Center has a process to

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1 perform on all new admissions HIV, hepatitis B and C, and  
2 herpes HSV1, HSV2 testing, the details of which still remained  
3 unknown to both me and Arroyo, ARNP. The orders and results  
4 were never documented and we only discovered this after a  
5 patient left after someone from the staff (unknown to us) told  
6 him that he had herpes and his girlfriend asked Arroyo to order  
7 testing.

8 (12) "Prior to June 15th, 2016, patients'  
9 medications were not properly, if at all, noted in the medical  
10 record resulting in significant medication confusion inhibiting  
11 proper patient care.

12 "When the facility listed medications, they did so  
13 without first verifying the current medications from a reliable  
14 source and made it appear as if the medications that the  
15 facility listed were accurate and current. In fact, the  
16 facility relied on what the patient stated as being their  
17 current medications.

18 "Many of the newly admitted patients were often  
19 intoxicated, confused or deliberately misleading with their  
20 current medications histories and dosage.

21 (13) "Reflections Treatment Center has no clear  
22 process to obtain medically necessary serum laboratory studies  
23 (CBC, CMP, liver enzymes, therapeutic drug levels). All of the  
24 laboratory orders that were entered into the medical record or  
25 handwritten on the provider order form went unanswered.

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1 (14) "Prior to June 15, 2016, psychiatric diagnoses  
2 were being entered into the medical director (sic) by someone  
3 other than a psychiatric provider or even an MD/ARNP. Upon  
4 treating patients at Reflections Treatment Center, several had  
5 incorrect diagnoses.

6 (15) "Patients with medication orders often did not  
7 receive their medications in a timely fashion or not at all due  
8 to an inadequate or absent medication process at Reflections  
9 Treatment Center.

10 (16) "Reflections Treatment Center inquired several  
11 times regarding billing for professional services, yet did not  
12 allow access to their billing when asked by Adam Arroyo, ARNP  
13 on my behalf. A medical director cannot be responsible for  
14 billing they are denied access to.

15 (17) "Kenneth Chatman introduced himself as the  
16 owner/CEO of Reflections Treatment Center, when he signed my  
17 professional services contract. After a month, I discovered  
18 that he is not the CEO at all from the letter terminating  
19 services.

20 "Thank you, Aron Tendler, MD, FL" and then it lists  
21 his license number.

22 Thank you, Your Honor.

23 MS. VILLAFANA: And, Your Honor, the United States  
24 calls H [REDACTED] Fu [REDACTED]

25 H [REDACTED] FU [REDACTED] GOVERNMENT WITNESS, SWORN.

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1 THE COURT REPORTER: Please state your name for the  
2 record and spell it for me.

3 THE WITNESS: H [REDACTED] Fu [REDACTED] H [REDACTED]  
4 F- [REDACTED]

5 DIRECT EXAMINATION

6 BY MS. VILLAFANA:

7 Q. Good morning, Ms. Fu [REDACTED]

8 A. Good morning.

9 Q. Can you tell the jury how old you are.

10 A. Twenty-seven.

11 Q. And where did you grow up?

12 A. Pennsylvania.

13 Q. Where do you currently live?

14 A. North Carolina.

15 Q. Did you previously live in Florida?

16 A. Yes.

17 Q. Why did you come to Florida?

18 A. For drug treatment.

19 Q. And how old were you when you came to Florida?

20 A. Probably 24, when I first came to Florida.

21 Q. Did you attend treatment at more than one facility in  
22 Florida?

23 A. Yes.

24 Q. How many do you think?

25 A. Definitely numerous, a lot.

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1 Q. Okay. Did you become a patient at Reflections Treatment  
2 Center?

3 A. Yes.

4 Q. Do you know when that was?

5 A. It was in July, I had been there twice. The first time was  
6 only about a day, enough to fill out the paperwork probably,  
7 and then shortly thereafter, I left; and then a few days later,  
8 would have been July 5th, when I entered for the longer term  
9 stay.

10 Q. Okay. And let me show you a couple of exhibits. First,  
11 I'm showing Exhibit 8023. Are you H [REDACTED] N [REDACTED] Fu [REDACTED]

12 A. Yes.

13 Q. And when you mentioned that you came to Reflections for  
14 only one day, is this the file that you completed on that  
15 visit, if you remember?

16 A. Yes.

17 Q. Let me show you page three of that document. Is that your  
18 photograph?

19 A. Yes.

20 Q. And then I'm going to show you Exhibit 8007. Were you born  
21 on June 24th, 1991?

22 A. Yes.

23 Q. On page seven, there is another photograph; is that you?

24 A. Yes.

25 Q. And you mentioned that you believe you returned to

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1 Reflections in July of 2016, is that correct?

2 A. Yes.

3 Q. Okay. When you first went to Reflections for just the day,  
4 were you staying in a particular sober home?

5 A. Yes. Then -- I believe that's how I came to Reflections or  
6 was introduced to the facility at all, was through this first  
7 house called Pura Vida. And it was not a very -- I went there  
8 with poor intentions as to what I was supposed to be doing in  
9 Florida, and then that's the IOP that was suggested to me.

10 Q. When you went to Pura Vida, they wanted to send you to  
11 Reflections?

12 A. Yes.

13 Q. Okay. And you said that you went there with poor  
14 intentions, what did you mean by that?

15 A. While I was supposed to be, you know, coming to Florida  
16 originally to get clean and sober, change my life, and at that  
17 point in time, I was not doing the right thing and not looking  
18 to do the right thing, so I was seeking out places where I  
19 could do, you know, the wrong thing.

20 Q. And by the wrong thing, you mean continue using drugs?

21 A. Yes.

22 Q. And not get clean and sober?

23 A. Right.

24 Q. All right. And so Pura Vida sent you to Reflections as a  
25 place where you could continue to do the wrong thing?

Friday, November 30, 2018.

1 A. That was where they sent me, so I, you know, would just  
2 assume or trusted in the fact that that's what everybody was  
3 doing. I don't know if that's the only place they sent people  
4 or -- you know.

5 Q. So when you went back in July, where were you living then?

6 A. Then I was in Reflections actual PHP, which is partial  
7 hospitalization program. After that time span, in between the  
8 first and second time, I was more serious about it and I just  
9 had already known about Reflections from being there, just that  
10 it was in existence, and I had already been involved, so I went  
11 into the PHP house, which was kind of more of a lockdown. You  
12 were either at the house or the treatment center type of thing  
13 then.

14 Q. Okay. And how was your stay at Reflections paid for?

15 A. My insurance.

16 Q. And what insurance was that?

17 A. It was Highmark BlueCross BlueShield, it was my parents', I  
18 was under 26 then.

19 Q. And so if we look at page seven of Government Exhibit 8007,  
20 is that your insurance information, Highmark BlueCross  
21 BlueShield?

22 A. Yeah.

23 Q. Do you know where Highmark BlueCross BlueShield was based?

24 A. That should have been Pennsylvania.

25 Q. Because that's where your parents were?

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1 A. Right.

2 Q. Now, while you were at Reflections, did you see various  
3 medical personnel?

4 A. Yeah.

5 Q. And did you receive prescriptions for medications?

6 A. Yes, I took medications there.

7 Q. Okay. Can you tell us what types of medications you were  
8 prescribed?

9 A. Suboxone, and a medication for bipolar disorder.

10 Q. Were you also subjected to testing while you were at  
11 Reflections?

12 A. Yes.

13 Q. What types of testing?

14 A. Well, the drug testing, and then I think blood tests,  
15 allergy tests. I'm not sure what all of the blood tests were  
16 for, that's what I know of.

17 Q. Now, let's talk about the blood testing and the allergy  
18 testing first. Did you ask for any of that testing?

19 A. No.

20 Q. Did you suffer from allergies?

21 A. No.

22 Q. Did you ever receive the results of any of those tests?

23 A. No.

24 Q. Now, let's talk about the urine testing, the drug testing.

25 How much were you tested?

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1 A. I would say -- you know, this was two years ago, when I was  
2 there, I would say like about four times a week, enough that I  
3 felt it was unnecessary to be able to catch someone using.

4 Q. And you said that at that time, you were in the PHP house,  
5 correct?

6 A. Yeah.

7 Q. In the PHP house, was it difficult to leave the premises?

8 A. Yes.

9 Q. Did you relapse while you were in the PHP house?

10 A. No.

11 Q. And because you were in that kind of lockdown situation,  
12 would it have been difficult for you, in fact, to relapse?

13 A. Yes.

14 Q. Were you ever shown the results of your urine testing?

15 A. No.

16 Q. Showing you page 351, did you ever see lab reports that  
17 looked like this?

18 A. No.

19 Q. Did you ever see lab reports -- showing you page 180, did  
20 you ever see lab reports that looked like that?

21 A. No.

22 Q. Showing page 117 of 620, is that your name at the top of  
23 the page?

24 A. Yes.

25 Q. And your date of birth?

Friday, November 30, 2018.

1 A. Yes.

2 Q. Are you able to read the progress notes, starting with  
3 25-year-old?

4 A. Yes.

5 Q. Can you read that out loud for us.

6 A. "25-year-old white female, HO, opiate abuse, here for FU.  
7 Patient recently relapsed last week. She denies CP, SOB,  
8 fever, chills, night sweats, nausea, vomiting, diarrhea,  
9 dizziness, insomnia or suicidal ideations. Patient doing well  
10 otherwise."

11 Q. First of all, did you relapse while you were in the PHP  
12 house?

13 A. No. I had -- I'm sorry, can I elaborate?

14 Q. Of course.

15 A. I had left -- my grandmother died, so I had left to go to  
16 Pennsylvania for her funeral and then on return, so it was  
17 while I was in Pennsylvania, not at that house.

18 Q. So you did have a relapse while you were still seeking  
19 treatment at Reflections.

20 A. Yes.

21 Q. Okay. And if you had -- when you relapsed, were you doing  
22 well otherwise?

23 A. Yes.

24 Q. Okay. So tell me what you mean by a relapse.

25 A. I used. Sorry.

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1 Q. That's okay.

2 A. Well, I was there for I guess my drug of choice -- well, I  
3 don't guess, I know my drug of choice was heroin is why I was  
4 there, and somehow I think that my brain at the time thought  
5 that cocaine was not as bad somehow. But regardless, I used it  
6 one time while I was in Pennsylvania and then returned to  
7 Florida kind of thinking I could keep it hush hush, but it was  
8 a one time use.

9 Q. And did you tell the doctor about that one time use?

10 A. I believe so.

11 Q. Okay. So the doctor knew about it because you told him,  
12 not because of a urine test.

13 MR. SCHUMACHER: Objection as to speculation,  
14 foundation.

15 THE COURT: Sustained.

16 THE WITNESS: Could you repeat that.

17 THE COURT: I sustained objection, so she will have  
18 to rephrase it.

19 MS. VILLAFANA: Yes, I will, Your Honor. Thank you.

20 BY MS. VILLAFANA:

21 Q. If you know, do you remember telling the doctor that you  
22 had relapsed?

23 A. I think it was -- I don't think I directly told the doctor,  
24 I think it was kind of a known thing, though, as far as -- as  
25 far as peers there, counselors. It wasn't a secret thing.

1 Once I had gotten back, it sort of blew up, so it was known by  
2 a good bit of people.

3 Q. Okay. And in addition to the urine testing that you had to  
4 provide, did you also have to provide oral swabs, saliva  
5 samples?

6 A. Yes. Not at first, I think it was --

7 MR. SCHUMACHER: Sorry, Judge, foundation as to time.

8 THE COURT: Overruled.

9 BY MS. VILLAFANA:

10 Q. You can answer the question.

11 A. Not at first. It was just -- from the time I was there,  
12 like the months in the beginning, it was just urine and then  
13 after a little bit of -- I want to say about a month, I can't  
14 be exact on the amount of time, but eventually then the saliva  
15 were added.

16 Q. Okay. Now, you mentioned one particular encounter with the  
17 doctor. How often did you see the doctor at Reflections?

18 A. Not often.

19 Q. And when you did see him, how long were the visits?

20 A. Not long, I honestly don't remember them.

21 Q. Okay.

22 MR. SCHUMACHER: Sorry, Marie, what page is that?

23 MS. VILLAFANA: 117.

24 MR. SCHUMACHER: Thank you.

25

1 BY MS. VILLAFANA:

2 Q. I'm showing what you has been admitted as Government  
3 Exhibit 1149. Do you recognize that exhibit?

4 A. I don't know what it is supposed to be.

5 THE COURT: I think you will have to do something,  
6 take it up to her, do something else.

7 MS. VILLAFANA: Thank you, Your Honor, sorry.

8 BY MS. VILLAFANA:

9 Q. Were you provided your medications in a bag marked with  
10 your name?

11 A. I wasn't given the bag. It was -- they may have been kept  
12 in this bag, but like I wasn't handed the bag, I think it might  
13 have been an attempt at organization or something.

14 But I was given it from a tech in the PHP house,  
15 there was an on duty like worker, and the medications were kept  
16 in a closet, and I was more so handed them.

17 Q. Okay. Were you ever given medications that belonged to  
18 someone else?

19 A. I can't be sure, but I believe that I was.

20 MR. SCHUMACHER: I'm going to object to that, unless  
21 she is sure about that.

22 THE COURT: Overruled.

23 THE WITNESS: I could -- am I allowed to elaborate?

24 BY MS. VILLAFANA:

25 Q. Of course.

1 A. I would receive -- I guess I can't speak for other people,  
2 but me, before being prescribed medication, like say Suboxone,  
3 because that's what I would have wanted to, you know, be happy  
4 or content or whatever and stay put, I would receive it before  
5 I would have been prescribed it. I think it was being borrowed  
6 from another patient and then replaced when mine was  
7 legitimized.

8 MR. SCHUMACHER: Again, Judge, this is speculative.

9 THE COURT: Overruled.

10 BY MS. VILLAFANA:

11 Q. Just to be clear for the jury, you are saying that you  
12 received Suboxone, the actual medication, before you received a  
13 prescription for Suboxone.

14 A. Yes.

15 Q. And who offered you Suboxone?

16 A. I can't say, I don't -- because I don't know exactly.

17 Q. Okay. Why did you leave Reflections?

18 A. I just -- I didn't like the -- the living conditions and  
19 whatnot were good where -- as far as like the house itself, the  
20 facilities. I just didn't like the way Kenny, mostly him, you  
21 know, talked with us or just the way it was ran in general  
22 really.

23 Q. Did Mr. Chatman make it difficult for you to leave?

24 A. Yes.

25 Q. How did he do that?

1 A. Making life very inconvenient for you if you do, you know.  
2 It wasn't impossible, you know -- impossible per se to leave,  
3 you know, but like my ID, my phone, my clothes, being it was a  
4 PHP house, all of those things were kind of overseen or kept,  
5 you know.

6 So I would be kind of like out in the world without  
7 any of my stuff, medication, anything like that, so it would be  
8 just like, well, it is not going to work out very well if I do  
9 leave.

10 Q. Would you have been homeless the way Mr. Chatman set it up?

11 A. Yes.

12 Q. And showing you what has been admitted as Exhibits 1147 and  
13 1148, are these photographs of medications that you received  
14 while you were at Reflections?

15 A. Yes.

16 Q. Were they returned to you when you left?

17 A. No.

18 MS. VILLAFANA: I have nothing further, thank you.

19 THE COURT: Cross-examination.

20 CROSS-EXAMINATION

21 BY MR. SCHUMACHER:

22 Q. Ms. Fu [REDACTED] would it be fair to say that you were in and  
23 out of a number of detox facilities during the course of your  
24 treatment?

25 A. Yes.



1 Q. And did you self-report when you first did intake into  
2 Reflections that you had been in an out of about 27 of them?

3 A. Yes.

4 Q. Do you remember making a statement to staff there that, "I  
5 had been to too many places and I didn't stay long enough to  
6 care"?

7 A. No.

8 Q. You don't recall that?

9 A. Not saying that I didn't.

10 Q. I understand.

11 MR. SCHUMACHER: May I approach, Your Honor?

12 THE COURT: Yes.

13 BY MR. SCHUMACHER:

14 Q. Handing you part of Government's Exhibit 6001 -- sorry  
15 Judge.

16 8007, sorry.

17 MR. SCHUMACHER: May I approach again, Your Honor?

18 THE COURT: Yes.

19 BY MR. SCHUMACHER:

20 Q. Just calling your attention here, can you just read this to  
21 yourself, this area here I've highlighted.

22 A. Okay.

23 Q. Does that refresh your recollection as to what you told  
24 staff when you came in?

25 A. Yeah, probably that I -- probably what I meant was I don't

1 remember the names because a lot of them probably weren't taken  
2 very seriously, not all of them. There were times of  
3 seriousness and times where I wasn't, but --

4 Q. When you say that, can you extrapolate on that, what  
5 exactly do you mean by that?

6 A. Let's take the number 27, which may not be an exact number,  
7 but say 27, you know, for those that are addicted to drugs as  
8 far as the way you think and feel and act, I can't say that I  
9 would have been fully committed to all of those, you know.

10 So the ones that I was, I would remember the names of  
11 the facilities and when I was in a period of not doing so well  
12 and not really caring about life or living or dying, then --  
13 you know, or I would end up out of them, so it didn't matter.  
14 The ones I was at longer, I would know.

15 Q. You had been using narcotics for what time period, when did  
16 you first start using?

17 A. At that point in time, I would say it had been six years.

18 Q. Okay. Is it also fair to say that as a result of your  
19 continuing use of narcotics, that it made you kind of hazy?

20 A. Yes.

21 Q. And you have indicated a couple of times to this jury, for  
22 instance, when asked by the Government about specific things,  
23 you had some difficulty remembering, is that right?

24 A. Yes.

25 Q. Okay. And is that -- do you think that that's, in part,

1 because of the fact that you were using narcotics so much at  
2 that time?

3 A. That, and the number of places.

4 Q. Because one seemed the same as the other, is that what you  
5 mean by that?

6 A. Kind of. There are ones that stick out, if I was there for  
7 a while.

8 Q. You mentioned to this jury, just a moment ago in response  
9 to one of my questions, that there were times that you didn't  
10 care if you lived or died, did I understand that correctly?

11 A. Yeah.

12 Q. And so was that because of your addiction at that point in  
13 time?

14 A. Yes.

15 Q. And the desperation that you felt?

16 A. Right.

17 Q. Okay. And you were under treatment with Suboxone for -- do  
18 you remember the first time you started taking Suboxone?

19 A. Probably -- are we talking first time ever or first time --

20 Q. Yes, ma'am, first time ever.

21 A. Probably a few months prior, I had tried it, but didn't  
22 stay on it.

23 Q. You say prior, you mean prior to your time at Reflections?

24 A. Yeah. They give it in detox centers as well, tapers like.

25 Q. Okay. So let's break that down a little bit. What do you

1 mean by detox centers, what is your understanding of what that  
2 is?

3 A. Detox and treatment are different. Detox is only seven  
4 days, it is more of a physical thing and not like a long-term  
5 treatment.

6 Q. Okay. And when you were in detox, were you placed on  
7 Suboxone?

8 A. Yes, a taper. You start higher, go lower and then off --

9 Q. Are you talking --

10 A. -- of it.

11 Q. Sorry, I didn't mean to interrupt you.

12 A. That's okay.

13 Q. Are you talking about over the course of that week that you  
14 are in detox?

15 A. Yes.

16 Q. Did you find Suboxone was actually helpful to you?

17 A. Yes.

18 Q. Did you find that it helped your cravings, for instance, to  
19 not want to shoot up heroin?

20 A. Yes.

21 Q. Had you ever overdosed before?

22 A. It is kind of unclear.

23 Q. What does that mean?

24 A. There had been times that I would wake up 13 hours later  
25 and didn't know I went to sleep, but I never called an

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1 ambulance, so I'm not sure.

2 Q. But you never stopped breathing and had to be resuscitated?

3 A. No.

4 Q. You had friends, though, that did.

5 A. Yes.

6 Q. So would it be fair to say that Suboxone helped you stay  
7 clean for different periods of time?

8 A. Yes.

9 Q. Okay. And I believe you indicated that part of the reason  
10 why you wanted to come to Reflections is because you knew --  
11 well, let me see, I think I took a note here.

12 You said that you would be happy to stay if you were  
13 given Suboxone, do you recall that?

14 A. It would have made me content as a drug addict.

15 Q. Well, what about -- besides as a drug addict, how about  
16 somebody who was trying to recover, would that have made you  
17 happy as well?

18 A. Yes. It has its drawbacks, also.

19 Q. Are you clean as we sit here today?

20 A. Yes.

21 Q. Over what time period?

22 A. Two years, I have had one incident in two years.

23 Q. Congratulations.

24 A. Thanks.

25 Q. Now, you mentioned that you were staying at RTC. Where you

1 saw the doctor or the medical staff, that's not where you were  
2 actually living, is that correct?

3 A. Right.

4 Q. The doctor's office and where you would be brought in to  
5 RTC or group therapy and individual therapy, that was at a  
6 different location than where you were staying.

7 A. Yes.

8 Q. I think you mentioned that you were in a PHP, right?

9 A. Yeah.

10 Q. And a PHP increases the level of supervision over you, can  
11 we agree to that?

12 A. Yeah.

13 Q. And based upon your relapses, you understood that that was  
14 a natural progression, correct?

15 A. Yeah.

16 Q. And so when they didn't, for instance, hand you medication,  
17 you knew that if they did, you might divert it or start abusing  
18 it, isn't that fair?

19 A. Yeah.

20 Q. In other words, if you were given a bottle of Suboxone,  
21 let's say 60 pills or let's say 30 pills, you could have used  
22 those all at once if you wanted to, correct, had the bottle  
23 been given to you?

24 A. Yeah. Most places don't just hand it to you while you are  
25 in the facility.

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1 Q. Okay. So out of all -- I know you don't know specifically  
2 how many facilities, but out of all of those, what you reported  
3 was 27 facilities, plus or minus.

4 A. Right.

5 Q. When you were in PHP, nobody gave you the Suboxone to take  
6 with you and hold in your room, right?

7 A. Right.

8 Q. Because there was a danger of you abusing that substance,  
9 correct?

10 A. Yes.

11 Q. Or giving it to your friends, for instance.

12 A. Right.

13 Q. By the way, when you were -- the date of your entry,  
14 according to Government's Exhibit 8007 -- you probably don't  
15 have an independent recollection as to when you came into RTC  
16 at any of these time periods, right?

17 A. I thought it was the 5th, but it says the 7th, but  
18 that's --

19 Q. So on the 7th or whatever day it was, you mentioned that  
20 they offered you, July 7th, allergy testing, is that right?

21 A. I don't know if it was the day of intake.

22 Q. Okay. Do you recall when it was?

23 A. No. Sometimes you would just be in group and get called  
24 out, like, Today is blood testing day, today is this day,  
25 everybody take your turn and go out when you are told.

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1 Q. Do you recall who -- did you see a doctor on 7/7, when you  
2 went in?

3 A. I don't remember.

4 Q. Okay. Ms. Villafana asked you if you were ever shown the  
5 results of any of your urine screens.

6 A. Yeah.

7 Q. Do you recall that?

8 A. Yeah.

9 Q. At any of the places that you were previous to Reflections,  
10 you never saw your drug screens, correct.

11 In other words, it came back from the lab and they  
12 never showed them to you, right, but they told you that you  
13 tested dirty for something?

14 A. Yeah, they would let you know.

15 Q. And for instance, if you had any other medical tests that  
16 were done at any of these places, nobody ever comes and shows  
17 you what the results are, can we agree to that?

18 A. If there is nothing abnormal or wrong.

19 Q. Okay. But if there is, you are saying that they had  
20 previously provided you with drug screens and urine screens,  
21 they gave you a copy of it?

22 A. No.

23 Q. Okay. That never happened, right?

24 A. I wouldn't say never, but not often.

25 Q. Okay. Have you ever been to a doctor since unrelated to



1 opiate addiction?

2 A. I'm not sure what you mean.

3 Q. You have gone into a doctor's office, correct?

4 A. Right.

5 Q. You have had tests done?

6 A. Like not to do with treatment, you mean?

7 Q. Yes, ma'am, blood work, things like that, x-rays.

8 MS. VILLAFANA: Objection, Your Honor, relevance.

9 THE COURT: Sustained.

10 BY MR. SCHUMACHER:

11 Q. Are you ever given copies of what goes on in a doctor's  
12 office as far as testing?

13 MS. VILLAFANA: Objection, Your Honor, relevance.

14 THE COURT: Sustained.

15 BY MR. SCHUMACHER:

16 Q. When you came in on July 7th, did you report that you were  
17 on Suboxone, gabapentin, and symbyax?

18 A. It sounds like -- it sounds like that would be correct.

19 Q. Okay. And for instance, in your medical reports, it  
20 indicates, "Current as of 7/7, 2016, those were the medications  
21 that you were currently taking, do you see that up above on the  
22 monitor?

23 A. Yes.

24 Q. So Suboxone, gabapentin and symbyax.

25 A. Yes.

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1 Q. And you were previously diagnosed for bipolar disorder, is  
2 that right?

3 A. Yeah.

4 Q. Okay. So were those medications continued for you during  
5 the course of your stay at Reflections?

6 A. I don't think the gabapentin was, I think I was on the  
7 Suboxone and the symbyax.

8 Q. Did Dr. Abovyan ever provide you with refills for Suboxone  
9 or gabapentin?

10 A. I'm not sure, I don't really know who my -- because I never  
11 had the medication, I don't know really know who or when it was  
12 prescribed or anything like that.

13 Q. I understand. And is it fair to say, as we sit here today,  
14 you don't recall specific people that you saw during the course  
15 of your treatment there?

16 A. I didn't know who was who.

17 Q. Okay.

18 A. The titles, I guess I would say, like between doctor, PA,  
19 you know, anything like that.

20 Q. Okay.

21 MR. SCHUMACHER: Tender the witness, Your Honor.

22 THE COURT: Any redirect?

23 MS. VILLAFANA: No, Your Honor.

24 Thank you so much.

25 THE COURT: Thank you, Ms. Fu [REDACTED]

1 (Witness excused.)

2 MS. CHASE: United States calls Bosco Vega.

3 MR. JOFFE: Judge, can we take our morning break?

4 THE COURT: In 15 minutes, unless you have to go now.

5 MR. SCHUMACHER: I do, Judge.

6 MR. JOFFE: My client needs to use the restroom.

7 THE COURT: All right. Let's take our 15 minute  
8 break, and return at 10:45.

9 COURTROOM SECURITY OFFICER: All rise.

10 (The jury retired from the courtroom at 10:30 a.m.)

11 THE COURT: Fifteen minutes.

12 MR. JOFFE: Thank you, Judge.

13 (Recess was had at 10:39 a.m.; and the proceedings  
14 resumed at 10:45 a.m.)

15 THE COURT: Let's bring them in.

16 (Jury in at 10:45 a.m.)

17 THE COURT: Welcome back, please be seated.

18 Please continue.

19 MS. CHASE: Thank you, Your Honor. The United States  
20 calls you Bosco Vega.

21 BOSCO VEGA, GOVERNMENT WITNESS, SWORN.

22 DIRECT EXAMINATION

23 BY MS. CHASE:

24 Q. Can you please state and spell your full name for the  
25 record.

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1 A. First name is Bosco, B-O-S-C-O, Vega, V-E-G-A.

2 THE COURT: Can you pull the microphone a little  
3 closer to you.

4 THE WITNESS: Sure.

5 BY MS. CHASE:

6 Q. Mr. Vega, how old are you?

7 A. I'm 25.

8 Q. Where did you grow up?

9 A. Nicaragua.

10 Q. When did you move to the United States?

11 A. Summer 1983.

12 Q. How old were you then?

13 A. I was 17.

14 Q. How far did you go in school?

15 A. High school in Miami.

16 Q. And did you graduate?

17 A. Yes.

18 Q. And Mr. Vega, have you been convicted of money laundering?

19 A. Yes.

20 Q. Did you plead guilty to that?

21 A. Yes, I plead guilty.

22 Q. When did you plead guilty?

23 A. It was sometime in August.

24 Q. Of this year?

25 A. Yes.

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1 Q. And as part of your plea agreement -- well, let me back up  
2 a little bit.

3 Did you have a written plea agreement?

4 A. Yes.

5 Q. And as part of that written plea agreement, did you agree  
6 to cooperate with the United States?

7 A. Yes, I did.

8 Q. What did you agree to do?

9 A. I agree to testify if you need me to testify, and help in  
10 any way I can.

11 Q. And so that includes your truthful testimony here today?

12 A. Yes.

13 Q. What does the Government have to do?

14 A. I'm doing this cause I'm hoping for a sentence reduction,  
15 but the Government is not going to guarantee anything, so I  
16 understand that there's no guaranties, so the best I can do is  
17 be honest.

18 Q. Have you been sentenced yet?

19 A. Not yet.

20 Q. When will you be sentenced?

21 A. I believe February 1st, 2019.

22 Q. And since there are no guaranties, do you know for sure  
23 whether you would receive time off for your truthful testimony  
24 here today?

25 A. No, I don't think so. I'm not sure.

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1 Q. Do you know who ultimately determines your sentence?

2 A. The judge.

3 Q. And your case is not before Judge Middlebrooks, correct?

4 A. No, it's someone else, another judge.

5 Q. And what happens if you do not tell the truth here today?

6 A. I could go to jail.

7 Q. Mr. Vega, are you familiar with Reflections Treatment  
8 Center?

9 A. Yes.

10 Q. And how did you come to be involved with Reflections  
11 Treatment Center?

12 A. I was a sales rep in 2016.

13 Q. Were you familiar with Reflections Treatment Center before  
14 becoming a sales rep?

15 A. Yeah, I was -- I was in contact with the owner because I do  
16 real estate, so I was a real estate agent for Kenny Chatman,  
17 the owner of Reflections, so that's how I knew of Reflections  
18 before I became a sales rep.

19 Q. We are going to talk a little bit about what being a sales  
20 rep means, but I want to talk a little bit about your  
21 background.

22 When did you become sales rep for Kenneth Chatman?

23 A. Beginning 2016.

24 Q. Who introduced you to Kenneth Chatman?

25 A. Lanny Fried.

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- 1 Q. What was your relationship with Lanny Fried?
- 2 A. We were friends for a long time.
- 3 Q. Were you close at that time?
- 4 A. Yes, we stay in same house at that time.
- 5 Q. And what sort of property was Mr. Chatman looking for?
- 6 A. He was looking for a rehab, a house for a rehab center.
- 7 Q. And did he actually find a property?
- 8 A. Yes, he found a house in Plantation for half a million.
- 9 Q. And when did he buy that house?
- 10 A. He bought the house, I believe it is March 2016.
- 11 Q. And as his realtor, did you spend a lot of time at
- 12 Reflections during that timeframe?
- 13 A. I went quite a few times because I drove him to see places,
- 14 so I went many times, yes.
- 15 Q. And where was Reflections located?
- 16 A. Reflections was in Tamarack, Coconut Creek.
- 17 Q. So South Florida area.
- 18 A. Yep.
- 19 Q. Do you know Tina Marie Barbuto?
- 20 A. Yes.
- 21 Q. How do you know her?
- 22 A. I know her through Lanny Fried.
- 23 Q. What was her role at Reflections?
- 24 A. She was medical director.
- 25 Q. Was she medical director or clinical director?

Friday, November 30, 2018.

1 A. I'm not sure.

2 Q. So she had some sort of supervisory --

3 A. Yes.

4 Q. -- function.

5 A. Yes.

6 Q. And just because we are in the courtroom, I have to ask you  
7 to let me finish my question before you begin your answer for  
8 the benefit of the court reporter.

9 A. All right, I understand.

10 Q. So when you would go to Reflections, how long would you  
11 stay there?

12 A. Sometimes I would go for like an hour, wait for Mr. Chatman  
13 to finish what he was doing; sometimes I just went in and out;  
14 sometimes I didn't go inside, he just came outside and we went  
15 to see places.

16 Q. And you mentioned earlier that at some point, you became a  
17 sales rep at Reflections.

18 A. Yes.

19 Q. What does that mean?

20 A. I was a sales rep for Smart Lab, and I was getting paid to  
21 be like the middle person between the rehab centers and the  
22 lab, Smart Lab.

23 Q. What is Smart Lab?

24 A. What was that?

25 Q. What is Smart Lab?

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1 A. Smart Lab, yeah.  
2 Q. Yes. What is it?  
3 A. It is a lab, they do testing for drug rehab centers.  
4 Q. What do they test, what sort of specimens?  
5 A. Urine.  
6 Q. And where was Smart Lab located?  
7 A. West Palm Beach.  
8 Q. And when did you become a sales rep for Smart Lab?  
9 A. Sometime in the summer of 2016.  
10 Q. All right. So you say you acted as a middle person, what  
11 exactly did you have to do?  
12 A. I was supposed to be the rep to organize all of the  
13 samples, make sure they went to the lab and supervise everybody  
14 involved with the testing and the rehab centers.  
15 Q. Did you have any medical training?  
16 A. No, never in my life.  
17 Q. And did you actually take samples back and forth from  
18 Reflections to Smart Lab?  
19 A. No, they had someone doing that, someone in charge of that.  
20 Q. How much were you getting paid?  
21 A. I was paid between 10 to 20,000 a month.  
22 Q. Can you repeat that?  
23 A. Between 10 and \$20,000 a month.  
24 Q. Between 10 and \$20,000 a month?  
25 A. Yes.

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1 Q. Just for overseeing these things?

2 A. Yes.

3 Q. Were you also responsible for getting payments from Smart  
4 Lab directly to Kenny Chatman?

5 A. Yes.

6 Q. How did you know that was going to be one of your  
7 responsibilities as a sales rep?

8 A. Because right before becoming a sales rep, I had a meeting  
9 with the owner of Smart Lab.

10 Q. What was the owner?

11 A. Hawkeye Wayne.

12 Q. Hawkeye is an unusual name, is that just his nickname?

13 A. I think that's his first name.

14 Q. Okay. And who else was at the meeting with Hawkeye Wayne?

15 A. Kenny Chatman and Lanny Fried and myself.

16 Q. Where did you all meet?

17 A. We met -- one time, we met at a restaurant, and another  
18 time in a Smart Lab office.

19 Q. And what was discussed among you regarding payments to  
20 Kenneth Chatman?

21 A. That every time I got paid a commission, I was supposed to  
22 give Kenny half of my net commission.

23 Q. So you were responsible for taking half of your net  
24 commission and taking that money to Kenneth Chatman?

25 A. Yes.

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1 Q. And this was decided at a meeting with Hawkeye Wayne  
2 present?

3 A. Yes.

4 Q. Can you estimate approximately how many times you directly  
5 paid Kenneth Chatman half?

6 A. I believe I did it like six -- at least six times.

7 Q. And this is half of your paycheck from Smart Lab, correct?

8 A. Yes.

9 Q. So approximately how much were each of those payments?

10 A. About 5,500, 6,000.

11 Q. And you did that six or seven times.

12 A. Yes.

13 Q. You became a sales rep in the summer of 2016, correct?

14 A. Yes.

15 Q. This was always on behalf of Smart Lab.

16 A. Yes.

17 Q. And its owner, Hawkeye Wayne.

18 A. Yes.

19 Q. Mr. Vega, when did you stop making payments to Kenny  
20 Chatman?

21 A. Sometime around October, November.

22 Q. How would you get the cash to Kenny Chatman?

23 A. I went to the bank to cash the checks, sometimes I went to  
24 a check cashing store to get the cash, and I drove to Kenny's  
25 house or his job to give him money in cash.

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1 MS. CHASE: May I have a moment, Your Honor?

2 THE COURT: Yes.

3 MS. CHASE: I pass the witness, Your Honor.

4 THE COURT: Cross-examination.

5 CROSS-EXAMINATION

6 BY MR. JOFFE:

7 Q. Sir, good morning.

8 A. Good morning.

9 Q. Mr. Vega, you have already pled guilty, is that correct?

10 A. Yes.

11 Q. So as you sit here today, you are a convicted felon,  
12 correct?

13 A. Yes.

14 Q. Does that affect your immigration status as well?

15 A. Yes.

16 Q. Are you subject to removal from the United States?

17 A. Yes, sir.

18 Q. Okay. Are you a permanent resident?

19 A. I'm a permanent resident, yes.

20 Q. You have a green card.

21 A. Yes.

22 Q. You are not a U.S. citizen.

23 A. No.

24 Q. In terms of your sentencing, what is the potential sentence  
25 that you face?

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1 A. I believe between 22 to 27 months.

2 Q. Okay. And your sentencing has been pushed off until  
3 February 1st, is that correct?

4 A. Yes, yes.

5 Q. That's to give you an opportunity to testify in this case,  
6 correct?

7 A. Yes, sir.

8 Q. Okay, all right. Is that because there is some concern  
9 that immigration may put a detainer on you once you are in  
10 custody?

11 A. No.

12 Q. Okay.

13 A. Not that I'm aware of.

14 Q. Is that something your lawyer negotiated on your behalf?

15 A. Yes.

16 Q. So that was a benefit to you, correct?

17 A. Yes.

18 Q. And you have had discussions with your lawyer about the  
19 potential reduction you may see, correct?

20 A. Yes.

21 Q. All right. And your reduction could be a third, it could  
22 be half, it could be greater than that, correct?

23 A. Correct.

24 Q. So your hope is that your sentence gets substantially  
25 reduced, correct?

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1 A. Yes, I hope so.

2 Q. All right. Does it help your immigration status if you  
3 avoid going to federal prison?

4 A. Yes, sir.

5 Q. If you are able to physically stay out of prison?

6 A. Yes.

7 Q. How does that help your immigration status?

8 MS. CHASE: Objection, relevance.

9 THE COURT: Overruled.

10 BY MR. JOFFE:

11 Q. I'm sorry, go ahead. How does that help?

12 A. I have to answer?

13 Q. Yes.

14 A. Well, if I get sentenced, I guess I get deported, but if I  
15 don't go to jail, I'm not subject to deportation.

16 Q. That's your understanding.

17 A. That's my understanding, yes.

18 Q. And do you have an immigration lawyer representing you on  
19 the immigration side as well?

20 A. No, I don't.

21 Q. All right. And in terms of the money laundering that you  
22 pled guilty to, what was the amount?

23 A. 244,000.

24 Q. And that amount reflects what specifically, how was that  
25 calculated?

1 A. That's the gross commission that I got from Smart Lab.  
2 Q. Okay.  
3 A. That was the gross payments that I got from being a sales  
4 rep for Smart Lab.  
5 Q. Being a sales rep for Smart Lab?  
6 A. Yes.  
7 Q. Over what period of time specifically?  
8 A. Between summer 2016 until sometime in 2017.  
9 Q. Okay. Was it a year?  
10 A. Yeah, probably, yeah.  
11 Q. You think it was more than a year?  
12 A. Something like that.  
13 Q. Okay. And you were paid in cash or by check?  
14 A. Check every time, yeah.  
15 Q. Did you pay taxes on that money?  
16 MS. CHASE: Objection, relevance.  
17 THE COURT: Overruled.  
18 BY MR. JOFFE:  
19 Q. Did you pay taxes on that money?  
20 A. I have to file my income tax return, yeah.  
21 Q. But have you paid the tax?  
22 A. Not yet, no, sir.  
23 Q. And the money that you had to kickback to Mr. Chatman, what  
24 percentage of this was that, half of that?  
25 A. Half, yes.

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1 Q. So out of the 200 some-odd thousand dollars, you had to  
2 give half of that to Mr. Chatman?

3 A. No, because not all of the money went to Mr. Chatman.

4 Q. Okay. Where did the other money go?

5 A. I was a sales rep for other companies, other rehab centers  
6 before.

7 Q. So you were paying kickbacks to --

8 A. No, no. I didn't pay kickback to anybody else, just  
9 Mr. Chatman.

10 Q. So out of that total amount of money that you pled guilty  
11 to, how much went to Mr. Chatman.

12 A. I would say like between 40, 45,000.

13 Q. All in cash?

14 A. In cash, yes.

15 Q. And that would be delivered by you what, on a weekly basis?

16 A. Weekly or bi-weekly. I was getting paid biweekly first and  
17 then I was getting paid weekly.

18 Q. And when you would meet Mr. Chatman to pay him, you would  
19 to go Reflections and give him the cash?

20 A. I would go to Reflections or I would go to house.

21 Q. Okay. Was his wife Laura present when you would go to his  
22 house to pay him?

23 A. No, because we went inside the office, she was not present.

24 Q. Okay. And when you would pay Mr. Chatman at Reflections,  
25 who else was present when you would hand the money to

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1 Mr. Chatman?

2 A. At his house or at his office?

3 Q. At the office.

4 A. Just Kenny, sometimes Lanny Fried.

5 Q. Okay. And Lanny Fried has been charged in this case as  
6 well, correct?

7 A. Yes.

8 Q. And Mr. Fried is set to be sentenced the same day as you?

9 MS. CHASE: Objection, relevance.

10 THE COURT: Sustained.

11 BY MR. JOFFE:

12 Q. Okay. And you said Lanny Fried was your friend, correct?

13 A. Yes.

14 Q. What was Lanny Fried -- what was your understanding of  
15 Lanny Fried's function with Reflections?

16 A. He was in charge of getting sales rep and -- he was in  
17 charge of getting sales rep for Smart Lab, getting reps. And  
18 in the beginning, he was a sales rep, but then he became like a  
19 supervisor for all of the rest of us.

20 Q. At Reflections itself?

21 A. No, no, at Smart Lab.

22 Q. Okay. And if you know, did you have pay any money to Lanny  
23 Fried?

24 A. Yes, I did.

25 Q. How much money did you have to pay to Lanny Fried?

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1 A. Half, half of the net paycheck.

2 Q. So the money you were being paid, you were splitting it  
3 with Mr. Chatman?

4 A. Before -- no. Before I became a sales rep for Mr. Chatman,  
5 I was a sales rep for other places and I had to give Lanny  
6 Fried half of the money, half of my money.

7 Q. Because I thought earlier you had said you were only doing  
8 that with Mr. Chatman.

9 A. Yeah, the kickback, yeah, to Mr. Chatman.

10 Q. Okay. And the money that you paid to Lanny Fried, that was  
11 not a kickback?

12 A. Well, I was supposed to pay him because he was supposedly  
13 the supervisor of all the sales rep, that's what he told me.

14 Q. That's what Lanny Fried told you.

15 A. Yes.

16 Q. What would happen if you did not pay Lanny Fried?

17 A. He would get somebody else to do it.

18 Q. And you would not be able to make the money, correct?

19 A. Correct.

20 Q. Okay. And was there anyone else you were having to split  
21 the money with?

22 A. Nobody else.

23 Q. And at the time you were doing that, were you also selling  
24 real estate?

25 A. Yes, sir.

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1 Q. All right. And were you working seven days a week?

2 A. Sometimes five, six days a week.

3 Q. Okay. Were there specific days of the week that you would  
4 transport the urine to the lab?

5 A. No.

6 Q. It was just every day?

7 A. No, I didn't do that.

8 Q. You didn't do that at all?

9 A. No.

10 Q. But you said you were responsible for making sure that the  
11 urine made it to the lab, correct?

12 A. Yes.

13 Q. How did you do that?

14 A. Well, making phone calls, making sure that the company  
15 responsible for that, the person doing that --

16 THE COURT REPORTER: Wait, wait. Company what?

17 MR. JOFFE: You have to slow down.

18 THE WITNESS: The company doing that, the person in  
19 charge of that, I was the one making sure everything was done  
20 on time, and overseeing everything making sure that everything  
21 was done.

22 BY MR. JOFFE:

23 Q. And what was the name of that person, was it Stefan Gatt?

24 A. No.

25 Q. Okay. Did you interact with Stefan Gatt?

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1 A. I met him a couple times.  
2 Q. Did you have to pay money to Stefan Gatt?  
3 A. No, sir.  
4 Q. What was the name of the individual that you would call to  
5 make sure the urine had gone to the lab?  
6 A. Her name is Gray.  
7 Q. I'm sorry?  
8 A. Gray, gray.  
9 Q. Gray?  
10 A. Yeah, G-R-A-A-Y.  
11 Q. What is the last name?  
12 A. I don't remember her last name.  
13 Q. It's a woman, correct?  
14 A. A lady, yes.  
15 Q. Has she been charged in this case?  
16 A. I don't think so.  
17 Q. Okay. She knows you've been indicted or you were indicted?  
18 A. I don't talk to her anymore.  
19 Q. Did you have to split money with her as well?  
20 A. No, sir.  
21 Q. All right. And who was responsible for, if you know,  
22 requesting the number of panels that would be tested in the  
23 urine?  
24 A. Different people.  
25 Q. Well, the question is if you know.

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1 A. I guess the people who work for Smart Lab. I mean, I  
2 didn't know that, I didn't know who it was.

3 Q. So the answer is you don't know?

4 A. No, I don't know, sir.

5 Q. Okay. Did you ever have a discussion with Kenny Chatman  
6 about the number of panels that needed to be tested --

7 A. No.

8 Q. -- for the urine?

9 A. No.

10 Q. Did you have an understanding of why there was so much  
11 value in that urine?

12 A. No, sir.

13 Q. No? Did you have an understanding of what was being billed  
14 to the insurance companies for the urine?

15 A. No, until at the end. I wasn't aware at that time, but I  
16 found out after.

17 Q. Where did you think your money was coming from?

18 A. It was coming from the insurance companies, I guess, when  
19 they got paid.

20 Q. Okay. And over the course of that time, you said you were  
21 paid about a quarter of a million dollars.

22 A. Yes, sir.

23 Q. Even though you didn't get to keep all of it, it was still  
24 a fairly significant sum for you, correct?

25 A. Yes, sir, yes, sir.

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1 Q. And the way you got involved in that you established a  
2 relationship with Mr. Chatman because you were driving him  
3 around showing him real estate, correct?

4 A. And also Lanny Fried. Lanny Fried was really the person  
5 who came to do that.

6 Q. So Fried recruited you.

7 A. Yes, sir.

8 Q. Why did you choose to do that?

9 A. Because at that time, I didn't think it was going to be a  
10 problem.

11 Q. Okay. And did Fried ever tell you, Hey, this is illegal?

12 A. No, he never told me that.

13 Q. Did Mr. Chatman ever say to you, This is illegal?

14 A. No.

15 Q. Did you have any questions about the legality of that?

16 A. No, sir.

17 Q. Okay. Did you have any suspicions about the legality of  
18 that based upon the fact that you had to cash the check and  
19 then pay these different people in cash?

20 A. No, sir.

21 Q. Okay. It didn't seem suspicious to you?

22 A. No.

23 Q. Now, when you would go to Reflections, would you interact  
24 with anyone else at Reflections?

25 A. Just say hi to different people, workers.

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1 Q. Okay. Did you ever -- did you know an Arman Abovyan?

2 A. No. I probably saw him at the place a couple times, but  
3 that's it.

4 Q. I'm not asking you to speculate, okay. Do you know the  
5 name?

6 A. If you can point me who he is, maybe I can say if he was  
7 present.

8 Q. I'm sorry?

9 A. Is he present in the courtroom, is he present?

10 Q. You are asking me?

11 A. Yes. Can I see him, then I tell you if I know who he was.

12 Q. Well, look around the courtroom, do you recognize somebody  
13 by the name of Arman Abovyan?

14 A. No.

15 Q. Okay.

16 A. No, sir.

17 Q. That's fine. And when you would go to Reflections, would  
18 you interact with any of the patients that were there?

19 A. No, sir.

20 Q. Okay. Would you interact with any of the nurse  
21 practitioners who were working there?

22 A. Just small talk, just say hi, that's it, how are you doing.

23 Q. And do you recall a young African-American woman who was  
24 responsible for collecting the urine at Reflections?

25 A. They have so many people working there, so I don't

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1 remember.

2 Q. Did you ever have any discussion with anyone at Reflections  
3 who was responsible for collecting the urine?

4 A. No.

5 Q. Okay. And did Mr. Chatman ever explain to you how he was  
6 operating Reflections?

7 A. No, no, sir.

8 Q. Did Fried ever explain to you how Reflections was being  
9 operated?

10 A. No, sir.

11 Q. And when did you first learn that this was a problem for  
12 you?

13 A. When I read in the newspaper, I believe it was October  
14 2016, there was an article in the newspaper talking about Kenny  
15 Chatman was being investigated.

16 Q. Okay. And did you contact Kenny Chatman?

17 A. No, I tried to stay away from him. So he kept calling me  
18 and trying to keep doing business, but I told him I didn't want  
19 to do it any more.

20 Q. What kind of business did Mr. Chatman want to do with you?

21 A. The same thing that I was doing.

22 Q. Did Mr. Chatman talk to you about the investigation?

23 A. No, we never spoke about it.

24 Q. You never asked him any questions about it?

25 A. No, sir.

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1 Q. What about Fried, was Mr. Fried still communicating with  
2 you after you read that article?

3 A. Yes.

4 Q. And you continued to have a relationship with Mr. Fried, is  
5 that correct?

6 A. Yes, yes, sir.

7 Q. And Mr. Fried was still working with Mr. Chatman, is that  
8 correct?

9 A. I don't think so, not -- after the article in the  
10 newspaper?

11 Q. Uh-huh.

12 A. Because Kenny got arrested sometime in December.

13 Q. Okay. And the article came out when?

14 A. I think it was end of October or beginning of November --

15 Q. Okay.

16 A. -- 2016.

17 Q. And you had discussions with Mr. Fried about the article,  
18 correct?

19 A. Yeah.

20 Q. Okay. And you discussed the potential problems for you  
21 with Mr. Fried, correct?

22 A. Yes, sir.

23 Q. Okay. And at what point did you decide to cooperate with  
24 the Government?

25 A. Beginning of 2018.

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1 Q. Okay. January of 2018?

2 A. Yes, sir.

3 Q. Okay. Was that after you were indicted --

4 A. No.

5 Q. -- or before?

6 A. Before.

7 Q. So you were trying to be proactive to help yourself?

8 A. Yes, sir.

9 MR. JOFFE: Thank you, sir. I have no further  
10 questions.

11 THE WITNESS: Thank you.

12 THE COURT: Any redirect?

13 MS. CHASE: Yes, Your Honor.

14 REDIRECT EXAMINATION

15 BY MS. CHASE:

16 Q. Mr. Vega, the 244,000 some-odd dollars that you received  
17 from Smart Lab, how was that determined, was it volume based,  
18 was it a flat rate?

19 A. Well, in the beginning, I thought it was a flat rate, but  
20 at the end, I found out that it had to do with the amount of  
21 samples they got from the rehab center.

22 Q. So it was based on volume?

23 A. Yes.

24 Q. So if a rehab center sent more samples to be tested, you  
25 would get more money?

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1 MR. JOFFE: Objection, leading.

2 THE COURT: Overruled.

3 BY MS. CHASE:

4 Q. So if a treatment center sent more samples, you would get  
5 more money?

6 A. Yes.

7 MS. CHASE: No further questions, Your Honor. Thank  
8 you.

9 THE COURT: Thank you, Mr. Vega.

10 THE WITNESS: Thank you.

11 (Witness excused.)

12 MS. VILLAFANA: Your Honor, the United States calls  
13 May Soto.

14 We do know she is here, Your Honor.

15 MAYDA SOTO, GOVERNMENT WITNESS, SWORN.

16 THE COURT REPORTER: Please have a seat and state and  
17 spell your name for the record.

18 THE WITNESS: My name is Mayda, M-A-Y-D-A, Soto,  
19 S-O-T-O.

20 DIRECT EXAMINATION

21 BY MS. VILLAFANA:

22 Q. Ms. Soto, with whom are you employed?

23 A. Optum.

24 Q. And how long have you worked for Optum?

25 A. Two years and a few months, two or three months.

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1 Q. Can you tell us the relationship between Optum and United  
2 Healthcare.

3 A. Optum is the payment integrity unit or payment integrity  
4 part of United Healthcare.

5 Q. Does Optum also deal specifically with behavioral health?

6 A. Yes, it does.

7 Q. Including substance abuse treatment?

8 A. Yes.

9 Q. So Optum's main business relates to health insurance?

10 A. Yes.

11 Q. Does United Healthcare/Optum operate in all 50 states?

12 A. I am not 100 percent sure if they do or not.

13 Q. Do they operate in more than one state?

14 A. Absolutely.

15 Q. And what position do you hold with Optum?

16 A. Senior investigator.

17 Q. Are you within the special investigation unit there?

18 A. Yes.

19 Q. And what is a special investigation unit and a senior  
20 investigator?

21 A. The special investigation unit is a unit, a department that  
22 specializes in investigating suspicious or fraudulent claims.

23 Q. Why do insurance companies need special investigation  
24 units?

25 A. To mitigate the losses for claims -- you know, claims paid

1 that shouldn't be paid.

2 Q. Okay. Are you familiar with the term pay and chase?

3 A. Yes, I am.

4 Q. What does that mean?

5 A. That means that insurance companies pay the claims that are  
6 submitted and if afterwards it is determined that the claims  
7 should not have been paid for whatever reason, they go after  
8 whoever it is they paid the monies to.

9 Q. Are there legal obligations about how long an insurance  
10 company can take to pay a claim?

11 A. Yes, I believe there is.

12 Q. And is that why sometimes claims are paid without being  
13 able to complete an investigation in advance?

14 A. Yes.

15 Q. Prior to joining Optum, what did you do?

16 A. I worked for a Medicare contractor, a zone program  
17 integrity contractor.

18 Q. How is that different from what do you now?

19 A. It is similar. A zone program integrity contractor  
20 investigates fraudulent claims for Medicare that are submitted  
21 to Medicare.

22 Q. So the only difference is instead of Medicare, you are now  
23 dealing with a private insurance company.

24 A. Correct.

25 Q. What is required for a claim to be reimbursable?

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1 A. There has to be -- the person had to be covered, it had to  
2 be medically necessary, and it had to be something that's  
3 covered under the policy. So the person has to be covered, the  
4 treatment or whatever it is has to be covered and it has to be  
5 medically necessary.

6 Q. What does it mean to be medically necessary?

7 A. That a physician has determined that the patient needs  
8 this, or needs whatever it is that they are ordering or  
9 prescribing.

10 Q. And that's a decision that the prescribing physician makes?

11 A. Yes.

12 Q. Now, you also said that the services have to be covered by  
13 the insurance policy, is that right?

14 A. Yes.

15 Q. Does United and Optum have specific policies about lab  
16 testing?

17 A. They do.

18 Q. And I'm showing you what have been admitted as Government  
19 Exhibits 5039 and 5040. Is this one of United's policies  
20 regarding laboratory services?

21 A. It is.

22 Q. And 5040, what is the title of that policy?

23 A. Laboratory rebundling policy.

24 Q. What does rebundling mean?

25 A. Rebundling means to put together services or procedures

1 that are covered under one code.

2 Q. So it's a way -- and why would somebody rebundle?

3 A. Well, unbundling is a way of separating the -- the  
4 processes or the coverages or the services that are performed  
5 to get more money for it because when it is unbundled, they  
6 bill individually for things and when it is rebundled, it is  
7 all inclusive.

8 Q. Okay. So you might bill multiple codes when you could bill  
9 one code --

10 A. One code.

11 Q. -- that was less expensive.

12 A. Yes.

13 Q. And also showing you 5041, is this another policy of Optum?

14 A. Yes.

15 Q. You mentioned that in order to be reimbursable, a claim has  
16 to be medically necessary, and the patient needs to be covered  
17 and it needs to be covered by the policy.

18 Does the person or entity who is submitting a claim  
19 have to be properly licensed?

20 A. Yes.

21 Q. And do the services have to actually be rendered to the  
22 patient?

23 A. Yes.

24 Q. What are the rules regarding co-pays, deductible,  
25 coinsurance, whatever you want to call it?

1 A. That the insured is responsible for paying that part of the  
2 claim.

3 Q. And why is there a requirement that the patient pay that  
4 part of the claim?

5 A. Well, it's -- that part of the claim is there to lower the  
6 cost of insurance for everyone and it is required because  
7 that's their portion of the services that were rendered.

8 Q. What is the role of a physician in the submission of  
9 insurance claims?

10 A. Generally, if it's services, they are the ones that have to  
11 order the service. If it is like a medical evaluation, they  
12 are the one that has to evaluate the patient.

13 Q. Is that also true for lab testing?

14 A. Yes.

15 Q. And is it true for prescription medications?

16 A. Yes.

17 Q. Did there come a time that you became involved in an  
18 investigation of Smart Lab?

19 A. Yes.

20 Q. Why was United and Optum investigating Smart Lab?

21 A. Because they came up on data analysis as being one of the  
22 top billers of toxicology codes, which we refer to as G codes.

23 Q. And as part of your investigation of Smart Lab, did you  
24 interview Dr. Abovyan?

25 A. Yes, I did.

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1 Q. Why did you do that?

2 A. Because it was our policy at the time that when we were --  
3 when we did a lab on-site, we would also interview the  
4 physicians who referred patients to that laboratory.

5 Q. And was Dr. Abovyan one of the top referers to Smart Lab?

6 A. He was the third.

7 Q. Okay. When did you interview Dr. Abovyan?

8 A. 2017.

9 Q. And was that in April of 2017?

10 A. Sounds about right.

11 Q. Do you remember where you interviewed him?

12 A. Yes, it was a phone interview.

13 Q. Tell us how it came about.

14 A. My partner and I visited his office, trying to locate him  
15 and he was not there. We left a business card and Dr. Abovyan  
16 returned my call.

17 Q. What did Dr. Abovyan tell you about his work at  
18 Reflections?

19 A. That he had started working there July or August and he  
20 worked there to December 2016, when the owners were arrested;  
21 that it was the biggest mistake of his life; that it was easy  
22 money and why not.

23 Q. So did Dr. Abovyan admit to ordering tests from Smart Lab  
24 and others for Reflections?

25 A. He said that he would order the testing and that

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1 Reflections are the one that would send out to the  
2 laboratories.

3 Q. But he admitted that he ordered them.

4 A. Yes.

5 MR. JOFFE: Objection, leading.

6 THE COURT: Overruled.

7 BY MS. VILLAFANA:

8 Q. Did Dr. Abovyan tell you how frequently he ordered lab  
9 testing?

10 A. Two to three times a week.

11 Q. And did he talk about the types of testing?

12 A. Yes. It was for toxicology screenings and the necessary  
13 blood work for monitoring.

14 Q. That's how he described it?

15 A. Yes.

16 Q. Did you ask Dr. Abovyan about the testing that he does in  
17 connection with his own offices?

18 A. Yes.

19 Q. What did he say?

20 A. That he --

21 MR. SCHUMACHER: Objection, relevance.

22 THE COURT: Overruled. Let's try to have one lawyer.

23 MR. SCHUMACHER: Sorry, Judge.

24 BY MS. VILLAFANA:

25 Q. Sorry, you can continue.

1 A. That he uses Labcorp or Quest.

2 Q. And how do the costs at Quest and Labcorp compare to the  
3 cost at Smart?

4 A. I would not know.

5 Q. Did you ask about co-pays and deductibles for Dr. Abovyan's  
6 private office?

7 A. Yes.

8 Q. What did he say?

9 A. That they are not waived.

10 Q. Did you ask about patient incentives?

11 A. Yes.

12 Q. What did he tell you?

13 A. Other than candy that he has in his office, there is none.

14 Q. Did you ask specifically about transportation?

15 A. Yes.

16 Q. What did he tell you?

17 A. No.

18 Q. Did he say anything about paying rent for patients?

19 A. Rent for patients, no.

20 Q. And would transportation and paying a patient's rent be the  
21 type of incentives that United would want to know about?

22 MR. SCHUMACHER: Objecting, leading.

23 THE COURT: Overruled.

24 A. I guess it would not be looked upon favorably.

25

1 BY MS. VILLAFANA:

2 Q. Did you ask Dr. Abovyan if he supervised anyone else?

3 A. Yes.

4 Q. What did he tell you?

5 A. That he did.

6 Q. Who did he say that he supervised?

7 A. Andrea Buehler.

8 Q. And did you specifically ask whether he supervised her  
9 work?

10 A. Yes.

11 Q. What did he tell you?

12 A. That he supervised everything she did.

13 Q. How many patients in total did Dr. Abovyan say that he  
14 treated at Reflections?

15 A. Ten, around ten.

16 Q. And was that just United patients or was that all patients?

17 A. All patients.

18 Q. What did he tell you about why he took the position at  
19 Reflections?

20 A. Because they seemed okay and that it was easy money, and  
21 why not.

22 Q. And when you say that he said it was easy money and why  
23 not, were those his exact words?

24 A. They were.

25 MS. VILLAFANA: No further questions.

CROSS-EXAMINATION

1  
2 BY MR. SCHUMACHER:

3 Q. Ms. Soto, when he said that he had seen patients, ten  
4 patients, wasn't that ten patients per day?

5 A. No.

6 Q. Did you ask him to specify what he was talking about?

7 A. I did. I asked, How many patients have you seen?

8 Q. Okay. And that's the way you asked him.

9 A. Yes.

10 Q. Now, you had this conversation with him by telephone, is  
11 that right?

12 A. Yes.

13 Q. We can agree that being in person, you gather a little bit  
14 more about a person, can we agree to that?

15 A. You could, I guess you could.

16 Q. You have been an investigator, investigating claims for  
17 quite a while now, correct?

18 A. Yes.

19 Q. And isn't it true that when you go and sit and talk to  
20 somebody, obviously you pick up on other cues besides what they  
21 are actually telling you?

22 A. Yes.

23 Q. Body language; yes?

24 A. Yes.

25 Q. You pick up their -- you know, any kind of ticks or tells

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1 that might indicate to you that they are not being truthful.

2 A. Yes.

3 Q. If they are making eye contact with you.

4 A. Yes.

5 Q. So you didn't have the benefit of doing that with

6 Dr. Abovyan, is that right?

7 A. Correct.

8 Q. So he told you, about Reflections, that they seemed okay.

9 A. Yes.

10 Q. What was your understanding about what he meant by that?

11 A. That it seemed on the up and up.

12 Q. Okay. Well, he referred to a they, right?

13 A. Yes.

14 Q. What was your understanding about who he meant by they?

15 A. The facility.

16 Q. So the entire facility, is that right?

17 A. Yes.

18 Q. In fact, he had told you, did he not, that he had never  
19 previously been associated with an opioid treatment center?

20 A. Yes.

21 Q. And you knew, from when you talked to him about, that his  
22 practice didn't involve treatment for opioid or substance abuse  
23 at his practice as a regular part of it, right?

24 A. Yes.

25 Q. You knew he was a board certified internist, is that right?

1 A. To be honest, I don't recall at the moment.

2 Q. You don't recall?

3 A. No.

4 Q. Okay.

5 A. What his certification was.

6 Q. So Dr. Abovyan told you that this was the worst mistake of  
7 his life, did you understand him to be remorseful?

8 A. I just took what he said at face value, I didn't make any  
9 interpretations of that.

10 Q. Well, did you interpret from -- with all of your training  
11 and experience, you have talked to how many doctors over the  
12 course of your --

13 A. A few.

14 Q. Hundreds?

15 A. No.

16 Q. Fifty?

17 A. Maybe.

18 Q. Okay. Some in person, some by phone, right?

19 A. Yes.

20 Q. Did he seem sincere when he said that?

21 A. Yes.

22 Q. Okay. Had you done any other investigation as to  
23 complaints against Dr. Abovyan during the course of his  
24 practice?

25 A. No.

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1 Q. Dr. Abovyan had told you that he had two offices, right?

2 A. Yes.

3 Q. He told you that he worked at the Pompano Beach office  
4 Monday and Wednesday.

5 MS. VILLAFANA: Objection, Your Honor, relevance and  
6 beyond the scope, also testifying from hearsay.

7 THE COURT: Overruled.

8 BY MR. SCHUMACHER:

9 Q. You can answer that, ma'am.

10 Dr. Abovyan told you that he worked at his Pompano  
11 office on Mondays and Wednesdays, correct?

12 A. He told me that he worked at two offices. If I were to  
13 tell you that he worked this day at that office and that day at  
14 the other, I don't remember the exact days, but he did work at  
15 two offices.

16 Q. You authored a report in connection with the telephonic  
17 interview, as well as a subsequent interview with Dr. Abovyan,  
18 correct?

19 A. Yes.

20 Q. Would looking at that report maybe refresh your  
21 recollection --

22 A. Sure.

23 Q. -- about this?

24 A. Yes.

25 MR. SCHUMACHER: May I approach, Your Honor?



1 THE WITNESS: Yes.

2 BY MR. SCHUMACHER:

3 Q. I'm going to call your attention to page four of a provider  
4 interview guide with the date of interview --

5 MS. VILLAFANA: Objection, Your Honor. This is not  
6 in evidence, he shouldn't be reading what it is.

7 MR. SCHUMACHER: I'm just identifying it, Your Honor.

8 THE COURT: Well if you are going to use it to  
9 refresh recollection, you can show it to her and then take it  
10 away, and do it under the rules.

11 MR. SCHUMACHER: Yes, sir.

12 BY MR. SCHUMACHER:

13 Q. Ms. Soto, could I ask you to just review the paragraph that  
14 I have outlined in marker, please, to yourself.

15 A. Okay.

16 MR. SCHUMACHER: May I approach again, Your Honor?

17 THE COURT: Yes.

18 BY MR. SCHUMACHER:

19 Q. Ms. Soto, does that refresh your recollection about the  
20 content of the conversation you had with Dr. Abovyan on 4/5?

21 A. Yes.

22 Q. Do you recall him telling you that he worked at the Pompano  
23 Beach office on Monday and Wednesday?

24 A. Yes.

25 Q. And that he worked at his Delray office Tuesdays and

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1 Thursdays?

2 MS. VILLAFANA: Objection, Your Honor, this is all  
3 hearsay.

4 THE COURT: It is. It is part of the same apparently  
5 telephone interview, so I'm going to overrule the objection.

6 A. Yes, that's on my report, that's what my report says.  
7 That's what he told me, that's what I wrote.

8 THE COURT: The question is what is your  
9 recollection, not what you wrote.

10 THE WITNESS: I don't recall the specific days that  
11 he told me. I recall that he told me that he worked at two  
12 offices.

13 BY MR. SCHUMACHER:

14 Q. Okay. He also told you that he had privileges at four  
15 different medical hospitals, correct?

16 MS. VILLAFANA: Objection, Your Honor, relevance.

17 THE COURT: Sustained.

18 BY MR. SCHUMACHER:

19 Q. Did he tell you that he worked at several ALFs and saw --

20 MS. VILLAFANA: Objection, Your Honor.

21 MR. SCHUMACHER: I'm sorry. If I could finish my  
22 question, Your Honor, just for the record.

23 BY MR. SCHUMACHER:

24 Q. Did Dr. Abovyan tell you that worked at several ALFs and  
25 saw Medicare patients there?

1 MS. VILLAFANA: Objection, Your Honor, relevance and  
2 hearsay.

3 THE COURT: Sustained.

4 BY MR. SCHUMACHER:

5 Q. Did he tell you whether or not he had been a medical  
6 director at any other facilities?

7 A. He said no.

8 Q. And you have already indicated on direct examination he  
9 indicated that he does lab testing in his office, is that  
10 right?

11 A. He doesn't do the lab testing, they draw samples there.

12 Q. Right, you corrected me. And he then sends them out to Lab  
13 Quest, and what was the other?

14 A. Labcorp and Quest.

15 Q. Those are two large national labs, correct?

16 A. Yes.

17 Q. Did he ever indicate to you -- he never indicated to you  
18 that he was ordering more labs so he could be paid more, did  
19 he?

20 MS. VILLAFANA: Objection, Your Honor.

21 THE COURT: Overruled.

22 BY MR. SCHUMACHER:

23 Q. You can answer.

24 A. That is correct, I did not ask that.

25 Q. But he certainly didn't volunteer that, correct?

1 A. No.

2 Q. What he told you was that while he was medical director at  
3 Reflections, they were testing patients between two and three  
4 times a week.

5 A. That is correct.

6 Q. That was his understanding.

7 A. Yes.

8 Q. Did he ever indicate to you that he had a financial  
9 interest in seeing that happen?

10 A. No.

11 Q. Or even increasing it from that point larger?

12 A. No.

13 MR. SCHUMACHER: Nothing further, Judge.

14 THE COURT: Is there redirect?

15 MS. VILLAFANA: Yes.

16 REDIRECT EXAMINATION

17 BY MS. VILLAFANA:

18 Q. Ms. Soto, Mr. Schumacher asked you whether Dr. Abovyan  
19 appeared remorseful. During your interview with him, did he  
20 offer to repay United for losses?

21 A. No.

22 Q. Did he make a report to United before you went there?

23 A. No, not that I'm aware of.

24 Q. Did he tell you that he made a report to any authorities  
25 before you appeared?

1 A. Not that I'm aware of.

2 Q. What did he say was his reason for working at Reflections?

3 MR. JOFFE: Objection, asked and answered.

4 THE COURT: Overruled.

5 A. That he met with them, that they seemed okay, and that it  
6 was easy money and why not.

7 MS. VILLAFANA: Nothing further.

8 THE COURT: All right. Thank you.

9 (Witness excused.)

10 MS. VILLAFANA: Your Honor, the United States calls  
11 Special Agent John Gerrity.

12 JOHN GERRITY, GOVERNMENT WITNESS, SWORN.

13 THE COURT REPORTER: Please have a seat and state and  
14 spell your name for the record.

15 THE WITNESS: My name is John, J-O-H-N, last name  
16 Gerrity, G-E-R-R-I-T-Y.

17 DIRECT EXAMINATION

18 BY MS. VILLAFANA:

19 Q. Good morning, Special Agent Gerrity. With whom are you  
20 employed?

21 A. Federal Bureau of Investigation.

22 Q. What is your position with them?

23 A. Special agent.

24 Q. How long have been a special agent with the FBI?

25 A. Since January of 2016.

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1 Q. As part of your work with the FBI, were you called upon to  
2 interview Dr. Arman Abovyan?

3 A. Yes, I was.

4 Q. When did that occur?

5 A. On June 30th, 2017.

6 Q. And where did it occur?

7 A. It occurred at his house in Boca Raton, Florida.

8 Q. Can you tell the ladies and gentlemen of the jury how you  
9 came to -- how that began?

10 A. Well, we decided to interview Dr. Arman Abovyan because he  
11 was one of the medical directors of Reflections and Journey to  
12 Recovery. Both of those facilities, we had been investigating  
13 and had charged a number of people from, and our investigation  
14 was continuing.

15 So that morning, I met up with a task force officer,  
16 Len DeBellis, Detective Len DeBellis, and we decided to go and  
17 interview Dr. Abovyan.

18 Q. Now, you mentioned that Detective DeBellis was a task force  
19 officer, what was his main agency?

20 A. The Martin County Sheriff's Office.

21 Q. And what position did -- excuse me -- Detective DeBellis  
22 hold with the Martin County Sheriff's Office?

23 A. Detective DeBellis wore several hats for the Martin County  
24 Sheriff's Office. In addition to being a detective and working  
25 economic crimes and healthcare fraud, he was also the

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1 diversion -- drug diversion coordinator for the Martin County  
2 Sheriff's Office; he handled the training for Narcan for all of  
3 Martin County; and I think he helped out with the DEA take back  
4 for expired drugs as well.

5 Q. Is Detective DeBellis still with the Martin County  
6 Sheriff's Office?

7 A. No, he retired.

8 Q. So on June 30th, 2017, you and Detective DeBellis decided  
9 to go interview Dr. Abovyan. Where did the interview take  
10 place?

11 A. It took place at Dr. Abovyan's home in Boca Raton.

12 Q. And tell us how you began the interview.

13 A. Certainly. We knocked on Dr. Abovyan's door, Detective  
14 DeBellis and I. Dr. Abovyan came to the door, we displayed our  
15 credentials, told him who we were, who we were with, and asked  
16 if he would be willing to speak with us about his time at  
17 Reflections Treatment Center and Journey to Recovery.

18 Q. And what did Dr. Abovyan tell you?

19 A. He invited us into his house and we sat down in his living  
20 room.

21 Q. And he said he was willing to speak with you?

22 A. Yes, he did.

23 Q. Did you at any point display firearms?

24 A. No.

25 Q. Or use handcuffs in any way?

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1 A. No.

2 Q. While you were inside, was Dr. Abovyan free to move around?

3 A. Yes, he was.

4 Q. And did you record the interview?

5 A. No, we did not.

6 Q. Tell us why you didn't record the interview.

7 A. We had actually planned to audio record the interview, but  
8 the day of the interview, Detective DeBellis and I met up and I  
9 went to test my FBI issued audio recorder. They run off of  
10 double A batteries, and it didn't turn on. I opened the  
11 battery compartment and the batteries were completely corroded  
12 and it wouldn't work.

13 Q. So why did you make the decision to go ahead with the  
14 interview anyway?

15 A. This investigation has many, many people and we have done a  
16 lot of interviews. There is a lot of people to interview, we  
17 had scheduled and planned to do Dr. Abovyan that day and I  
18 wanted Detective DeBellis to be there for it.

19 He came a long way from Hope Sound, he has expertise  
20 in drug diversion, and he is actually -- being a detective is a  
21 second career. He was a dentist, he practiced dentistry for  
22 many years, so he has a certain expertise that I like to have  
23 with me when I'm interviewing a doctor because I don't have any  
24 medical experience.

25 Q. Now, is there a requirement by the FBI that you record

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1 interviews?

2 A. No.

3 Q. At that time, this was a non-custodial interview, correct?

4 A. Correct.

5 Q. So you decided to proceed with the interview and you said  
6 that Dr. Abovyan said he was willing to speak with you.

7 A. Yes, he did.

8 Q. What did you ask him?

9 A. We are started out by asking him about his background,  
10 where he's from, where he went to school, where he has worked.  
11 We went through background, and then we started talking about  
12 how he came to work at Reflections Treatment Center and Journey  
13 to Recovery.

14 Q. And what did he tell you about how he first learned of  
15 Reflections?

16 A. He first learned of Reflections through a man named Stefan  
17 Gatt, Stefan Gatt was a lab representative and Stefan Gatt had  
18 made a cold call to Dr. Abovyan's office several months prior  
19 to Dr. Abovyan beginning his employment at Reflections, and  
20 Stefan was pitching lab tests.

21 Dr. Abovyan said that he ordered some of those lab  
22 tests and liked Stefan, so a couple months after that  
23 relationship started, Stefan came to Dr. Abovyan and asked if  
24 he would be interested in being the medical director of  
25 Reflections Treatment Center.

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1 Q. Now, you are referring to a person named Stefan, that's  
2 Mr. Gatt?

3 A. Yes, Mr. Gatt.

4 Q. How did Dr. Abovyan refer to him?

5 A. I believe he called him Stefan Gatt.

6 Q. Did it appear, from talking to Dr. Abovyan, that there was  
7 a friendship between himself and Mr. Gatt?

8 MR. JOFFE: Objection.

9 THE COURT: Sustained. You can report observations,  
10 but I think that would call for a conclusion about somebody  
11 else.

12 MS. VILLAFANA: Okay. Certainly, Your Honor.

13 BY MS. VILLAFANA:

14 Q. Did Dr. Abovyan mention socializing with Mr. Gatt?

15 A. I know he said he liked Stefan and I know they had gone  
16 to -- gone to dinner.

17 Q. So how did it come about that Mr. Gatt mentioned  
18 Reflections to Dr. Abovyan?

19 A. Well, Reflections Treatment Center needed a medical  
20 director to operate, and Stefan and Kenneth Chatman and  
21 Dr. Abovyan met over dinner and discussed what would be  
22 required if he were to be medical director at Reflections.

23 Q. If Dr. Abovyan would be medical director?

24 A. Yes, that's correct.

25 Q. And what did Dr. Abovyan tell you specifically they

1 discussed would be required?

2 A. That he would have to take care of the patients, be on call  
3 if anything was needed and get a license to prescribe Suboxone.

4 Q. So the issue of Suboxone was specifically raised at that  
5 meeting, that dinner?

6 A. Yes.

7 Q. And what did Dr. Abovyan tell you about Suboxone?

8 A. Dr. Abovyan said he liked prescribing Suboxone, and he  
9 liked to give it to patients.

10 Q. Did he tell you when or if he got that license before he  
11 started at Reflections?

12 A. No, he did not.

13 Q. Did you talk with him about what the schedule -- what his  
14 schedule would be at Reflections?

15 A. Yes, we did.

16 Q. What did he tell you?

17 A. It was Mondays, Wednesdays and Thursdays, he would be at  
18 Reflections.

19 Q. And specific times of the day?

20 A. Specifically, I think it was mornings one day, and then  
21 all -- I think it was maybe all day another day. I don't  
22 recall the exact specific times.

23 Q. Is there anything I can show you that would refresh your  
24 recollection?

25 A. Yes, there is. I wrote a report after the interview that's

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1 called an FD302.

2 Q. I'm going to show you a copy that doesn't have my notations  
3 on it, so we will move on to another topic.

4 Did you ask Dr. Abovyan about whether he worked with  
5 anyone else at Reflections?

6 A. He did work with other people at Reflections.

7 Q. And who were those people?

8 A. He -- well, at Reflections, he worked with Brad Cohen, who  
9 was a clinical director; he worked with Tina Barbuto, who was  
10 also a clinical director, associate clinical director; there  
11 was a medical assistant that he worked with.

12 Q. What about members of his own staff?

13 A. Yes, Dr. Abovyan had nurse practitioners on his staff that  
14 he worked with.

15 Q. And did he tell you their names?

16 A. Yes, Andrea Buehler was one; Lindsey, and he couldn't  
17 recall the last name; and then also a Lauren Roscoe.

18 Q. He couldn't remember Lindsey's last name?

19 A. Correct.

20 Q. And then he mentioned Lauren Roscoe.

21 A. Yes.

22 Q. Let me show you what has been marked for identification as  
23 Government Exhibit 6203.

24 MR. JOFFE: 6208?

25 MS. CHASE: 6203.

1 BY MS. VILLAFANA:

2 Q. Let me ask if you can review that and tell me if it  
3 refreshes your recollection about the time of day.

4 A. It does.

5 Q. What times of day did Dr. Abovyan tell you he worked at  
6 Reflections?

7 A. Monday morning, Wednesday mornings and Thursday afternoon.

8 Q. Okay. Did you ask Dr. Abovyan specifically about lab  
9 testing?

10 A. I did.

11 Q. What did he tell you?

12 A. We asked about what kind of lab tests he would order, and  
13 his response was that, you know, whatever they wanted, it would  
14 be ordered and that whatever was there, he would test for it.

15 Q. Did he tell you what the testing protocol was?

16 A. It was three times a week per patient.

17 Q. And was that something that he had set up?

18 A. No. It was what the -- what Kenneth Chatman, what the  
19 treatment center wanted.

20 Q. Did you ask about personalizing the testing by, you know,  
21 the patient's background?

22 A. I did. I actually remember asking a specific example about  
23 if a patient were to come in and they were only addicted to  
24 cocaine, that was the only drug they used, that was their drug  
25 of choice, would you just test for cocaine or would you test

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1 for, say, 100 other drugs, and his response was you would test  
2 for everything.

3 Q. And again, is that -- does that go back to his statement  
4 that whatever the lab has and it is in there, that's what you  
5 order?

6 A. Yes.

7 Q. Did you ask him about standing orders?

8 A. I did. I asked him specifically about whether he signed  
9 standing orders for the lab, and he said that he did sign  
10 those.

11 Q. Did you ask him about whether or not he reviewed results of  
12 the lab testing?

13 A. Yes, he said he did.

14 Q. So let me show you what has been admitted as Government  
15 Exhibit 2206. Is this the type of standing order that you were  
16 asking about?

17 A. Yes, it is.

18 Q. And 2208.

19 A. Yes, that's the type of standing order that I was referring  
20 to.

21 Q. 2209.

22 A. Yes.

23 Q. When we looked at 2209, which I have now misplaced somehow,  
24 what facility does that relate to?

25 A. Reflections Treatment Center.

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1 Q. And 2208.

2 A. Reflections Treatment Center.

3 Q. And 3005.

4 A. Journey to Recovery.

5 Q. Did Dr. Abovyan distinguish in any way between the testing  
6 for Reflections patients or Journey to Recovery patients?

7 A. No, he did not.

8 Q. Now, you asked -- you asked him about prescriptions,  
9 correct?

10 A. Yes, I did.

11 Q. And referring to prescriptions for medications?

12 A. Yes.

13 Q. What did he tell you?

14 A. Dr. Abovyan would write prescriptions for the patients at  
15 Reflections when he saw them. We asked about if he would ever  
16 presign prescriptions; so in other words, sign his name and  
17 then have the prescription blank, and then have his nurse  
18 practitioners fill in whatever drug was to be prescribed, and  
19 he said that he did do this; that he would presign the scripts,  
20 give them to his nurse practitioners, but distinguished and  
21 said he would only do this for basic stuff.

22 Q. Was that his terminology, basic stuff?

23 A. Yes. He specifically said basic stuff, and then referred  
24 to four drugs, clonidine, clonazepam, Zoloft and Suboxone.

25 Q. So he referred to Suboxone as basic stuff?

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1 A. Yes, he did.

2 Q. And did you ask whether he knew about every prescription  
3 that was written?

4 A. I did. You know, he said that he would presign and then  
5 give them to nurse practitioners. I followed up with asking  
6 him, How would you know what they were signing, and he said --  
7 he claimed to know, or he said he knew every prescription that  
8 was being written, but there was no explanation for how.

9 Q. And you said that the presigned prescriptions were supposed  
10 to be used for those four drugs; the basic stuff, clonidine,  
11 Zoloft, clonazepam and Suboxone. Did you ask about Adderall?

12 A. I don't think I did.

13 Q. Did he mention anything about Adderall or amphetamine  
14 salts?

15 A. No, he did not.

16 Q. Did he mention anything about other controlled substances,  
17 like Suboxone or Adderall?

18 A. No, just Suboxone.

19 Q. Did you ask about how much money he was paid at  
20 Reflections?

21 A. I did.

22 Q. What did he tell you?

23 A. Initially, he said that he got paid \$5,000 per month.

24 Q. And did you ask about payment disputes?

25 A. I did. I asked if he ever had a payment dispute with Kenny

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1 Chatman.

2 Q. What did he tell you?

3 A. He initially told me he never had a payment dispute.

4 Q. Did you confront Dr. Abovyan with any documentation that  
5 contradicted his statement?

6 A. Yes.

7 Q. What did you confront him with?

8 A. I had some text messages that were seized from a search  
9 warrant for Kenny Chatman's phone that were between Kenny  
10 Chatman and Dr. Abovyan.

11 Q. And let me show you what has been admitted as Government  
12 Exhibit 5005. What is 5005?

13 A. 5005 is a Cellebrite extraction report from Kenneth  
14 Chatman's phone, and it's a string of text messages between  
15 Kenneth Chatman, Tina, a Reflections therapist, and Dr. Arman  
16 Abovyan.

17 Q. Did Dr. Abovyan tell you anything about who Tina was?

18 A. Yes. He said that Tina Barbuto was one of the clinical  
19 directors of Reflections Treatment Center.

20 Q. And he knew her.

21 A. Yes, he did.

22 Q. Let me show you what has been previously admitted as  
23 Government Exhibit 5043. Can you tell us what 5043 is?

24 A. An extraction report, a Cellebrite extraction report from  
25 Kenny Chatman's iPhone, and it's a string of text messages from

1 Dr. Abovyan and Kenneth Chatman.

2 Q. Are these the text messages that you used to confront  
3 Dr. Abovyan?

4 A. Yes.

5 Q. And let me direct your attention to a text message exchange  
6 dated October 24th, 2016. Can you read the text messages from  
7 October 24th, 2016.

8 A. Yes. The first text message from October 24th, 2016, it is  
9 from Dr. Arman Abovyan: "GM, Kenny, how are you? I was there  
10 looking for you, can you write a check and give to Andrea in an  
11 envelope. Detox 9,450, treatment 10,500, or call me if you  
12 want."

13 Q. Now, you said that Dr. Abovyan told you he was paid a flat  
14 rate of \$5,000 a month.

15 A. Yes.

16 Q. Is that significantly in excess of \$5,000?

17 A. Yes.

18 Q. How much was he supposed to receive for October?

19 A. For October, it's a total of \$19,950.

20 Q. And what did he tell you when you confronted him about  
21 that?

22 A. He admitted that there were additional payments; that in  
23 addition to -- well, that the 5,000 was -- the \$5,000 payment  
24 was so that Kenny Chatman could use his medical license to bill  
25 insurance.

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1           The additional payments were for detox, it was broken  
2 down on a per day basis for Journey to Recovery and  
3 Reflections, and it was \$250 per day for detox and \$350 per day  
4 for treatment.

5 Q. And \$19,950 is also in excess of \$11,000, correct?

6 A. Yes, it is.

7 Q. So if you could -- if I could ask you to read the next text  
8 message.

9 A. The next text message is from Kenneth Chatman and it says,  
10 "She has the check."

11 Q. Could you continue.

12 A. Yes. The next text message is from Dr. Arman Abovyan,  
13 "Thank you, Kenny."

14 Q. And the next one.

15 A. The next one is from Dr. Arman Abovyan and it says, "Kenny,  
16 it's 950 short, bro."

17 Q. Now, you told us that the numbers in the first text message  
18 added up to what?

19 A. 19,950.

20 Q. And if you deduct \$950, how much does that end up being?

21 A. \$19,000.

22 Q. Let me show you page three of Exhibit 4002, which is  
23 already in evidence. What is that exhibit?

24           MR. JOFFE: Page three?

25           MS. VILLAFANA: Yes.

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1 A. That's a check from Kenneth A. Chatman, Jr., dated  
2 October 24th, 2016, pay to the order of Arman Abovyan for  
3 \$19,000, the for line says detox/treatment, and it's signed by  
4 Kenneth Chatman.

5 BY MS. VILLAFANA:

6 Q. And is the date of the check the same as the date of the  
7 text messages?

8 A. It is.

9 Q. Do the text messages show other payments in excess of  
10 \$5,000 a month?

11 A. Yes, they do.

12 Q. And before we move on to November, does Dr. Abovyan follow  
13 up with Mr. Chatman about the missing \$950?

14 A. I believe he does.

15 Q. If I can direct you to October 26th, 2016, what does that  
16 text message say?

17 A. It is a text messages from Dr. Arman Abovyan and it says,  
18 "K, I'll be there at 11:00. Kenny, please have a check for 950  
19 from this month's check."

20 Q. Now, Dr. Abovyan wrote something about, "I'll be there at  
21 11:00, question mark, where was he supposed to go?

22 A. That was Journey to Recovery.

23 Q. And why did he need to meet with Mr. Chatman about Journey  
24 to Recovery?

25 A. Journey to Recovery opened in October 2016, and Kenny

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1 wanted Dr. Abovyan to be medical director at Journey to  
2 Recovery.

3 Q. So what does the text message from October 26th say?

4 A. I can't see October 26th right now.

5 Okay. The first text message on October 26th is from  
6 Kenneth Chatman. It says, "Good morning. Are you coming to  
7 Reflections this morning?"

8 The next text message is from Dr. Arman Abovyan, "You  
9 want me to?"

10 The next text message is from Kenny Chatman, "Well, I  
11 want to get my other location established with you."

12 And the next text message is from Dr. Arman Abovyan.  
13 "K, I'll be there at 11:00, question mark, question mark.  
14 Kenny, please have a check for 950 for this month's check."

15 Q. Okay. You told us earlier that Dr. Abovyan said he worked  
16 Monday mornings and Wednesday mornings, correct?

17 A. That's correct.

18 Q. Let me show you what has been marked for identification as  
19 Government Exhibit 18. What is Government Exhibit 18?

20 A. Government Exhibit 18 is a series of monthly calendars for  
21 July, August, September, October, November and December 2016.

22 (Evidence identified as Government Exhibit No. 18.)

23 BY MS. VILLAFANA:

24 Q. Did you print those out?

25 A. I did.

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1 Q. Where did you get them from?

2 A. I got them from printacalendar.com.

3 MS. VILLAFANA: Your Honor, we would move Exhibit 18  
4 into evidence.

5 MR. JOFFE: No objection.

6 THE COURT: 18 is admitted.

7 (Evidence admitted as Government Exhibit No. 18.)

8 BY MS. VILLAFANA:

9 Q. And if I can have you look at the October calendar, and  
10 tell us what day of the week October 26th is.

11 A. It's a Wednesday.

12 Q. So that was a day that Dr. Abovyan was supposed to be at  
13 Reflections.

14 A. Per what he told me, yes.

15 Q. In the mornings.

16 A. Yes.

17 Q. If I could direct you to November 14th, 2016 in Government  
18 Exhibit 5043, can you read that text for us.

19 A. This is from Dr. Arman Abovyan, "Hi, Kenny. Andrea is  
20 still there. If you can and don't mind, give her the check,  
21 bro, 15,300, she is going to stop by my office."

22 Q. And immediately before that, what was the text message?

23 A. "Hi, Kenny, 15,800."

24 Q. So after those two text messages, does Mr. Chatman respond?

25 A. Yes, he does.

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1 Q. What does he say?

2 A. "She has your check."

3 Q. And if we could go to the top of page four of Government  
4 Exhibit 4002, what do we see?

5 A. This is a check from Reflections Treatment Center, LLC, pay  
6 to the order of Arman Abovyan, dated November 14th, 2016 in the  
7 amount of \$15,300, the for line says medical director, and it  
8 is signed by Kenny Chatman.

9 Q. Is that the same date as the text message exchange?

10 A. Yes, it is.

11 Q. And finally, if we can go to December 12th, 2016, and if  
12 you could read the text message to us.

13 A. "Hi. The invoice for all three places. Detox, eight days,  
14 times 350, \$2,800; Reflections, 9,000; Journey, \$5,500;  
15 \$17,300."

16 Q. And moving to the last page of Government Exhibit 4002,  
17 what is that?

18 A. It's a check from Reflections Treatment Center paid to the  
19 order of Arman Abovyan. It's dated December 15th, 2016 for  
20 \$17,300, the for line says medical director, and it's signed by  
21 Kenneth Chatman.

22 Q. Now, all of these payments were in excess of \$5,000.

23 A. Yes.

24 Q. And in excess of \$11,000.

25 A. Yes.

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1 Q. Tell us what the \$5,000 was supposed to pay for, according  
2 to Dr. Abovyan?

3 A. The \$5,000 was so that his medical license could be used so  
4 that insurance could be billed for what Reflections and Journey  
5 were doing.

6 Q. And who was going to be able to use his medical license?

7 A. Kenneth Chatman.

8 Q. Now, you told us that he admitted reviewing the test  
9 results and also the prescriptions, correct?

10 A. Yes.

11 Q. Did he also talk about patient files?

12 A. Yes, he did.

13 Q. What did he tell you?

14 A. He described the patient files at Reflections and Journey  
15 as being electronic medical records, EMR, and that you would go  
16 through and review the files and you would click to sign.

17 Q. Did he say that he did that?

18 A. Yes.

19 Q. Did he say that other people also did it?

20 A. Yes.

21 Q. And who did he say also reviewed the charts?

22 A. He said his nurse practitioners did as well, and Tina  
23 Barbuto.

24 Q. And did he explain how you would sign off on a chart?

25 A. The way he described it, he would just click, it would be

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1 the click of a mouse.

2 Q. Did you ask him about the care of the patients in  
3 Reflections, as well as when they left to go to their sober  
4 homes?

5 A. Yes.

6 Q. What did he tell you?

7 A. One thing we asked about was the medication, how that would  
8 be handled. The medical assistant would be responsible for  
9 giving a patient their medication while at the treatment  
10 center, but then the house managers would handle everything  
11 when the patients would go to their sober homes, and he said  
12 whatever happens happens at that point.

13 Q. Were those his exact is words, whatever happens happens?

14 A. Yes, they were.

15 Q. Did Dr. Abovyan say whether he took an interest in the  
16 amount of testing that was done?

17 A. No, just that he would -- I'm sorry, are you asking if  
18 he -- could you rephrase that.

19 Q. Did Dr. Abovyan ever express any interest in the amount of  
20 testing that was being done or try to direct the amount of  
21 testing?

22 A. No. That was solely directed by Kenneth Chatman and he  
23 said directly, you know, Whatever they want, you order it.

24 Q. Did he ever instruct Mr. Chatman about not ordering things?

25 A. He did say don't order anything you shouldn't be or that's

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1 wrong.

2 Q. So Dr. Abovyan told Mr. Chatman that Mr. Chatman needed to  
3 make sure that they didn't order anything wrong.

4 MR. JOFFE: Objection, leading.

5 THE COURT: Overruled.

6 A. Yes.

7 BY MS. VILLAFANA:

8 Q. Did you ask him specifically about things that Dr. Abovyan  
9 signed?

10 A. Yes.

11 Q. And what did he say?

12 A. He said he signed the standing orders for the urine  
13 testing.

14 Q. And did he confirm that whatever he signed, he ordered?

15 A. Yes.

16 Q. Now, when you confronted him about the payments, did he  
17 tell you where he did his banking?

18 A. Yes, he did.

19 Q. What did he tell you?

20 A. Chase.

21 Q. And he said he did all of his banking at Chase?

22 A. I don't think he said exclusively, but he did say Chase, I  
23 do recall him saying Chase Bank.

24 Q. Did you ask about what would happen if Dr. Abovyan learned  
25 that a patient was using drugs?

1 A. Yes, I did.

2 Q. What did he say?

3 A. He said if he learned a patient was using drugs, he would  
4 discharge them from the facility.

5 Q. And did he tell you whether or not there was conflict about  
6 that?

7 A. Yes, there was conflict about that.

8 Q. Who would push back against him?

9 A. Chatman and Tina Barbuto.

10 Q. And did he admit that he was not always successful in  
11 discharging?

12 A. Yes, he did.

13 Q. That Kenny Chatman or Tina Barbuto could overrule him?

14 A. Yes.

15 Q. What was Dr. Abovyan's position at Reflections Treatment  
16 Center?

17 A. Medical director.

18 Q. What was his position at Journey to Recovery?

19 A. Medical director.

20 Q. Could those facilities be licensed without a medical  
21 director?

22 A. No, DCF requires that a medical director is at any  
23 treatment center.

24 Q. Did you ask Dr. Abovyan anything about whether he checked  
25 the place out before he started working there, before he

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1 accepted employment?

2 A. Yes, I did.

3 Q. What did he tell you?

4 A. He said he had his people check it out, and I know he spoke  
5 with Dr. Cichowicz about this.

6 Q. Did Dr. Abovyan say anything about whether he had any  
7 knowledge or training to be a medical director of a substance  
8 abuse facility?

9 A. No.

10 Q. And at the time that Dr. Abovyan joined Reflections, had  
11 there already been many news reports about problems at  
12 Reflections?

13 A. Yes.

14 MR. SCHUMACHER: Objection, relevance.

15 THE COURT: Overruled.

16 A. Yes.

17 BY MS. VILLAFANA:

18 Q. If people had checked it out, would they have found those  
19 easily?

20 A. I think if you just Googled Kenneth Chatman or Reflections  
21 Treatment Center, you would see quite a few news stories about  
22 it at that point.

23 MS. VILLAFANA: I have nothing further, Your Honor.

24 THE COURT: Cross-examination.

25 MR. SCHUMACHER: Thank you, Judge.

CROSS-EXAMINATION

1  
2 BY MR. SCHUMACHER:

3 Q. Agent Gerrity, so if I understand this correctly, you had a  
4 recorder with you on the day that you went to go speak to  
5 Dr. Abovyan.

6 A. Yes, I did.

7 Q. It was actually yours, it wasn't a recorder belonging to  
8 the other investigator that went with you?

9 A. No, it was my recorder.

10 Q. Okay. And when did you first realize that the batteries  
11 weren't working?

12 A. It was that morning.

13 Q. What time did you go to Dr. Abovyan's?

14 A. It was pretty early. I met up with Detective DeBellis, I  
15 want to say probably around 6:00 or a little after. He was  
16 coming all the way from Martin County, and it was at that point  
17 where I -- we met up and actually got in one car together, and  
18 that's when I tested it and it didn't work.

19 Q. Okay. So 6:00 a.m.?

20 A. It was after 6:00 a.m., probably some time between 6:00 and  
21 7:00 a.m.

22 Q. How long did it take you to drive over to Dr. Abovyan's  
23 house in Boca Raton?

24 A. Well, Dr. Abovyan's house was actually not the first stop.

25 When we go out for interviews, we get data on people, we get

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1 information based on where they might be living.

2 One of the addresses we had was in Pompano Beach, so  
3 we first went to Pompano, we got to the house, I ran the tag of  
4 the car in the driveway to see if it was, in fact,  
5 Dr. Abovyan's, and it turns out it was his father's house.

6 Once we realized that, we realized the other address  
7 in Boca Raton was the one we wanted to go to. By the time we  
8 got to Dr. Abovyan's house, it was probably closer to -- maybe  
9 between 7:30 and 8:00 o'clock.

10 Q. So you meet up with -- is it Detective DeBellis?

11 A. It's detective, yes.

12 Q. So you meet up with him, you are driving around, I'm  
13 assuming you passed a couple of gas stations along the way.

14 A. I would assume so, yeah.

15 Q. You are driving from Pompano Beach, you met up with  
16 DeBellis where, in Pompano?

17 A. No.

18 Q. Where did you meet him?

19 A. It was on the turnpike stop off of Southern -- just south  
20 of Southern Boulevard.

21 Q. So you are actually in Palm Beach County when you meet him.

22 A. Yes, that's correct.

23 Q. Did you drive down the turnpike or I-95?

24 A. I drove down the turnpike.

25 Q. So there is actually a rest station there, right?

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1 A. There is.

2 Q. You can go in and buy stuff there, right?

3 A. Yes, you can.

4 Q. Including batteries.

5 A. Yes, you can.

6 Q. So can we agree, sir, that you and Detective DeBellis had  
7 ample opportunity to go buy batteries, two batteries, right,  
8 for this recorder?

9 A. Yeah, I think it was two double A's; yes, we had ample  
10 time.

11 Q. These aren't anything unusual, right, it's something you  
12 can buy anywhere?

13 A. Correct.

14 Q. Can we agree to this jury, Detective -- Agent, sorry, that  
15 you purposely didn't stop for those batteries because you  
16 didn't want to record this conversation.

17 A. No.

18 Q. Why didn't you stop at any location if your only reason for  
19 not recording this conversation with Dr. Abovyan was because  
20 you didn't have batteries?

21 A. It wasn't just the batteries, the whole battery compartment  
22 was corroded.

23 Q. Okay.

24 A. You know --

25 Q. I don't remember you telling us that on direct.

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1 THE JURY: Yes, he did.

2 BY MR. SCHUMACHER:

3 Q. Could you have stopped and bought, for instance, at a CVS  
4 or something like that, another microcassette player?

5 A. No.

6 Q. Why not?

7 A. I have would have to use the one issued to me by the FBI, I  
8 can't use a personal device.

9 Q. Why, is it somehow or another going to be tainted?

10 A. There is a policy.

11 Q. There is also a policy in place with Mr. Holder, when he  
12 was AG, about you guys recording conversations when possible,  
13 isn't that right?

14 A. Yeah, when possible, yeah.

15 Q. So 2016, that was before President Trump actually became  
16 president, right?

17 A. Yes.

18 Q. So there was a standing order from AG Holder saying that  
19 whenever possible, you are to record a conversation, is that  
20 right?

21 A. I would have to review the policy, I can't remember exactly  
22 when it was, but as I recall, custodial interviews are required  
23 to be recorded.

24 Q. Okay.

25 A. This was a non-custodial interview, so I decided to go

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1 ahead the way we do a lot of our reports, and you take notes  
2 and then you write the report afterwards.

3 Q. And you also choose purposely to not record many  
4 conversations with prospective witnesses or defendants, right?

5 A. I guess it depends on the situation. I mean, there is a  
6 choice, yeah.

7 Q. Have you ever heard of the terminology used by your office  
8 that there is a chilling effect to put a recorder in front of  
9 somebody?

10 A. I have never heard that.

11 Q. Have you ever had an experience that putting a recorder in  
12 front of people that you are asking questions of has a tendency  
13 to make them not want to talk?

14 A. I actually have experienced that. The way we do things  
15 is -- if I would have had the recorder on me that morning, when  
16 I was in the car, getting ready to go up to his house, I would  
17 have done a preamble.

18 I would have said, This is Special Agent John  
19 Gerrity, I'm with Task Force Officer Len DeBellis, that the  
20 time was whatever the time was and, you know, we would walk up  
21 to the door, knock on the door, just like we did, display our  
22 credentials, ask if he would be willing to speak with us, and  
23 we would inform them at that time, We have a recorder on, would  
24 you like us to keep it on, is that okay.

25 Sometimes people tell us no, and we turn the recorder

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1 off at that point and we take notes, just like we did in this  
2 case.

3 Q. You agree you are not under any obligation to tell them  
4 that you are recording that conversation, correct?

5 A. I would have to get -- I would have to talk to my  
6 supervisor to get approval to surreptitiously record an  
7 interview.

8 Q. But because you didn't record it, you are free to put in  
9 your report whatever it is that you claim Dr. Abovyan said to  
10 you, can we agree to that, sir?

11 A. Yes.

12 Q. And that we have your recollection of the events. You  
13 aren't writing out the report as you are talking to him, right?

14 A. No, I'm taking notes.

15 Q. Okay. By the way, you also did not -- you chose not to  
16 Mirandize him at that point in time, correct?

17 A. He was not in custody.

18 Q. I understand. My question is, did you decide to tell him  
19 that he had the right to have an attorney present?

20 A. No, I did not give Miranda -- didn't give him his Miranda  
21 rights. I told him he can speak with us, he can choose not to  
22 speak with us, it was completely voluntary. People tell us all  
23 of the time to get lost and we do.

24 Q. But can we agree -- but you didn't tell him he had a right  
25 to speak to an attorney or have one present while you were

1 speaking to him.

2 A. I did not tell him that.

3 Q. You didn't want to tell him because you wanted to talk to  
4 him and you wanted to catch him off guard, that's why you went  
5 there early in the morning.

6 A. There's a couple of reasons we go early in the morning.  
7 One, we don't like to be chasing people throughout the day, we  
8 don't like to be going to people's workplace and disrupting  
9 their lives in that sense, so one reason we went to his house  
10 in the morning is because we thought he would be there.

11 Q. Okay. And again, you go to the house because you can  
12 also -- he doesn't know you are coming, right? You didn't call  
13 him ahead of time and say, Hey, Dr. Abovyan, we are going to  
14 stop by, this is federal law enforcement, right?

15 A. No, we did not.

16 Q. You do that to get an advantage over him and to hopefully  
17 catch him off guard and get him to speak, right?

18 A. I don't think there is an advantage to catching people off  
19 guard. I mean, it's -- I think sometimes when you talk to  
20 people, if they know that federal law enforcement is coming,  
21 they may be hesitant to talk, so going to his house early in  
22 the morning, that was really so we could find him there and get  
23 him to speak with us.

24 Q. Okay. So you had mentioned Mr. Gatt to him as far as --  
25 and did you actually mention that to him or did he mention his

1 name first to you?

2 A. He mentioned it.

3 Q. Okay. And that was in response to how he actually became  
4 involved with Reflections, is that right?

5 A. Correct.

6 Q. Okay. Had you already spoken to Mr. Gatt prior to speaking  
7 to Dr. Abovyan?

8 A. Our team had.

9 Q. Okay. Did you know what the conversation was with  
10 Mr. Gatt?

11 A. Yes.

12 Q. Okay. So Dr. Abovyan starts by telling you that he was  
13 working at Reflections, he was specified to be there Monday,  
14 Wednesday, and Thursday, isn't that right?

15 A. Yes.

16 Q. Monday and Wednesday morning, Thursday afternoon.

17 A. Yes.

18 Q. And at the time, when he had started, Journey to Recovery,  
19 it wasn't even in existence, can we agree to that?

20 A. I believe it had been incorporated, but I don't think it  
21 was open yet.

22 Q. Okay. So when I say in existence, I mean that it was  
23 actually operating, right?

24 A. Correct.

25 Q. In fact, you told this jury, I think, that some of the text

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1 messages back and forth from Dr. Abovyan and Kenny Chatman  
2 indicated that that was going to be opening sometime in  
3 November, right?

4 A. I believe it was October, but yes.

5 Q. Latter part of October, maybe?

6 A. Yeah, that's correct.

7 Q. Okay. So did you ask Dr. Abovyan specifically, when he  
8 came to a financial arrangement with Kenny Chatman, whether or  
9 not they anticipated opening a second location?

10 A. Did I ask him that question?

11 Q. Yes.

12 A. I'm sorry, could you repeat that. That was kind of a long  
13 question.

14 Q. Yeah. When you spoke to Dr. Abovyan, did you or did you  
15 not speak to him about whether or not Journey to Recovery was  
16 ever anticipated when he first started as medical director at  
17 RTC?

18 A. I don't think that was discussed.

19 Q. Okay. So did he later tell you that because of his  
20 involvement at RTC, that he expected compensation for that?

21 A. I don't think I asked it that way. I mean, he was the  
22 medical director and he was to get paid.

23 Q. But you actually had in your possession -- you had  
24 information before you went to go see Dr. Abovyan that as far  
25 as his remuneration or payment, that there was a division as

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1 far as payment concerning how he was to be paid, is that right?

2 A. Yes.

3 Q. Okay. And that he was actually expecting payment based  
4 upon involvement at Reflections, correct?

5 A. Correct.

6 Q. Based at Journey separately, correct?

7 A. Correct.

8 Q. And detox, correct?

9 A. Correct.

10 Q. Okay. Were you yet in possession of Government's Exhibit  
11 2001 at the time when you spoke to Dr. Abovyan? You were,  
12 correct?

13 A. Is this 2001 you are showing me right now?

14 Q. Yes, sir.

15 A. Yes, I was.

16 Q. Okay. So you also knew that there had been an employment  
17 agreement between Dr. Abovyan and Reflections, correct?

18 A. I don't know if I had reviewed this employment agreement  
19 specifically before talking to him, but I knew there was an  
20 agreement.

21 Q. Okay. So is it your testimony that you didn't know -- this  
22 was a document that was actually retrieved from Mr. Chatman's  
23 house, correct, or from Reflections?

24 A. I can't say specifically where this was retrieved from, we  
25 did retrieve contracts from Reflections Treatment Center.

1 Q. Had you ever seen this document before you went to go see  
2 Dr. Abovyan?

3 A. I can't say for sure.

4 Q. But nevertheless, federal law enforcement had a document  
5 that said that he was -- that he had an agreement between  
6 Reflections Treatment Center and himself, Arman Abovyan, MD,  
7 and also Dr. Cichowicz, correct?

8 A. Correct.

9 Q. And that he was going to be paid, pursuant to that, a  
10 certain amount of money, right?

11 A. Yes.

12 Q. \$11,000 per month.

13 A. Yes.

14 Q. And Dr. Cichowicz was also going to get \$2,000 out of that,  
15 correct?

16 A. That's what it says, yes.

17 Q. Had you made any independent observations to see whether or  
18 not Dr. Abovyan had ever made those payments to Dr. Cichowicz  
19 out of the monies he received?

20 A. No.

21 Q. Okay. You would agree that according to this, the  
22 providing rounding schedule, that the days and times that  
23 Dr. Abovyan had verbally responded to you was consistent with  
24 this particular employment agreement, correct?

25 A. It is consistent with this agreement.

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1 Q. Okay. He told you that he worked in the mornings Monday  
2 and Wednesday, right?

3 A. Yes.

4 Q. And then Thursday in the afternoon.

5 A. Yes.

6 Q. Approximately three hours each day, actually three and a  
7 half on Thursday, right?

8 A. Yes.

9 Q. And that they were going to do detox as well.

10 A. Are you reading from this or --

11 Q. Yes, outpatient --

12 A. Could you repeat that.

13 Q. Yes, sir. And that they were also agreeing to do  
14 outpatient detox as a result of that.

15 A. As a result of his agreement, yes.

16 Q. Okay. And that Dr. Cichowicz -- he was a psychiatrist, you  
17 knew that, right?

18 A. Yes.

19 Q. And that he was also agreeing to have certain hours there  
20 at Reflections as well, right?

21 A. Yes.

22 Q. So you had information, when you went to Dr. Abovyan's,  
23 that -- you had an idea that he was being paid money from  
24 Reflections and Mr. Chatman, right?

25 A. Yes.

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1 Q. Okay. You also had information that the money that he was  
2 being paid had nothing to do or was not tied together with lab  
3 results.

4 A. No. I mean, the lab results were -- the moneymaker for  
5 Reflections was the lab.

6 Q. Okay.

7 A. That was the way -- that's where the majority of -- not a  
8 majority, but a lot of the insurance bills were for expensive  
9 lab testing.

10 Q. I'm going to hand you up Government's Exhibit 5043. Can  
11 you point out for me the text messages from Dr. Abovyan where  
12 he is mentioning the number of lab results that have gone on  
13 for a particular time period?

14 A. No.

15 Q. You can't do that, Agent, because it doesn't exist, right?

16 A. You are right.

17 Q. We can agree that based upon this incommunicado  
18 conversation between Dr. Abovyan and Mr. Chatman that there is  
19 nothing tying the number of drug panels or urine panels to what  
20 he is being paid in writing.

21 A. In text message, no.

22 Q. Okay. And Dr. Abovyan, furthermore, also told you -- he  
23 gave you a statement relative to those tests, correct?

24 A. He did.

25 Q. Did he tell you even one time, Agent, that I ordered more

1 tests because I would get paid more, did he ever tell you that  
2 one time?

3 A. No, he didn't say that. He just said that whatever Kenny  
4 wanted, he would order it.

5 Q. Did he ever tell you even one time that he had artificially  
6 inflated the number of urine tests in order to get more money  
7 for Kenny?

8 A. No.

9 Q. Did he tell you that he ever inflated the number of blood  
10 tests so as to get Kenny Chatman more money?

11 A. No.

12 Q. You also had in your possession conversations between  
13 Dr. Abovyan and Tina Barbuto at the time when you went to go  
14 speak to him, correct?

15 A. Yes.

16 Q. Okay. And can we also agree that in those incommunicado  
17 conversations, text messaging, between Dr. Abovyan and  
18 Ms. Barbuto, there was no text communicating a desire from  
19 Dr. Abovyan to bill more for testing.

20 MS. VILLAFANA: Your Honor, calls for hearsay.

21 THE COURT: Sustained.

22 BY MR. SCHUMACHER:

23 Q. Did you ever ask Dr. Abovyan -- did you ask him why he gave  
24 Kenny blanket -- kind of carte blanche as far as the number of  
25 tests?

1 A. He said that's what Kenny wanted, that's what the treatment  
2 center wanted, so he ordered it.

3 Q. And Dr. Abovyan had told you already that he had never been  
4 a medical director of an opioid substance abuse program,  
5 correct?

6 A. Yes, he said this was the first one he had worked at.

7 Q. Now, you mentioned that -- you were talking --  
8 Ms. Villafana, on direct examination, mentioned that  
9 Dr. Abovyan had said that he was agreeing to test three times a  
10 week, is that right?

11 A. Yes.

12 Q. You also knew that testing similar to that had been  
13 happening at Reflections even before he had come there,  
14 correct?

15 A. Yes, it had.

16 Q. For the two prior medical directors that had been present,  
17 correct?

18 A. Yes, for multiple medical directors, there was more than  
19 just two medical directors that they had. That's all.

20 Q. Okay. And Ms. Villafana asked about a particular -- you  
21 gave Dr. Abovyan a hypothetical about somebody who would be  
22 using cocaine, right?

23 A. That's right.

24 Q. And whether or not he would treat that person different in  
25 terms of testing, right?

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1 A. Correct.

2 Q. And he indicated no, he would continue to do a full panel,  
3 right?

4 A. He did.

5 Q. Now, I know that you are not -- you have already indicated  
6 that in terms of doctors and I'm assuming medical issues, you  
7 don't consider yourself an expert, correct?

8 A. No, sir.

9 Q. How long have you been in law enforcement?

10 A. I've been in law enforcement since January 2016.

11 Q. Okay. So what did you do before that, I don't remember you  
12 saying?

13 A. Lawyer.

14 Q. Okay. Sorry.

15 A. That's okay.

16 Q. I'm not going to ask you which one you like better, I  
17 really am not.

18 So you knew, though, from your training and  
19 experience that people that use controlled substances often  
20 cross-abuse substances, correct?

21 A. It happens, yeah.

22 Q. Okay. Well, you saw some of the medical records in  
23 connection with this case, right?

24 A. Yeah.

25 Q. You knew people that were being treated at Reflections had

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1 been using anything from all at once or individually heroin,  
2 barbiturates, cocaine, Dilaudid, any number of things, right?

3 A. Yes, and we do see crossover.

4 Q. Okay.

5 A. We also see patients who might just be alcoholics, they  
6 won't touch other drugs, or they just smoke marijuana, they  
7 just do cocaine.

8 Q. Now, when you went to Dr. Abovyan, federal law enforcement  
9 already had Government's Exhibit 2206 that Ms. Villafana showed  
10 you, right?

11 A. Yes.

12 Q. Federal law enforcement already had Government's Exhibit  
13 3005, right?

14 A. Yes.

15 Q. Already had 2208?

16 A. Yes.

17 Q. Already had 2209?

18 A. Correct.

19 Q. Yes. And these were some of the provider protocols that  
20 Dr. Abovyan had purportedly signed, right?

21 A. Correct.

22 Q. Did you bring these with you when you went to go see Arman  
23 Abovyan?

24 A. No.

25 Q. Did you show them to him?

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1 A. No, I did not.

2 Q. Did you show any to him and say, What part of this did you  
3 agree with and what part didn't you agree with?

4 A. No, I did not.

5 Q. Okay. Did you provide him with any of these and say, Is  
6 that really your signature?

7 A. No.

8 Q. Did he tell you that any of the -- you knew that there was  
9 some standing orders that had been, over and over again,  
10 duplicated with Whiteout, correct?

11 A. Yes.

12 Q. Did you ever produce any of those to Dr. Abovyan and say,  
13 Hey, do you remember seeing these standing orders with Whiteout  
14 that look like they are multiple copies?

15 A. They weren't standing orders. I believe you are referring  
16 to individual requisition forms, but to answer your question,  
17 if that's what you are referring to --

18 Q. Yes, sir.

19 A. -- no, I did not.

20 Q. In fact, there was one just signed with his name, correct?

21 A. I think that's correct.

22 Q. Okay. And did you ever ask him about that one to see why  
23 that was signed in blank?

24 A. No.

25 Q. Or if he had signed it in blank?

1 A. No.

2 Q. Did Dr. Abovyan tell you that he knew -- we have already  
3 talked about the fact that he had ordered blood panels --  
4 excuse me, urine panels two to three times a week for these  
5 individuals, right?

6 A. Yes.

7 Q. Did you ask him specifically the number of specific  
8 substances that were being tested for?

9 A. I believe I did, and he didn't know exactly how many, but  
10 it was whatever Reflections wanted, whatever Kenny wanted.

11 THE COURT: Find a convenient time to break.

12 MR. SCHUMACHER: We can break right now, Judge.

13 THE COURT: All right. It is 12:30, let's break and  
14 return at 1:30.

15 COURTROOM SECURITY OFFICER: All rise.

16 (The jury retired from the courtroom at 12:29 p.m.)

17 THE COURT: Okay. I have a 1:15 hearing and there  
18 will be somebody at that table.

19 MR. SCHUMACHER: Do you want us to clear stuff off?

20 THE COURT: At least get it together.

21 (Recess was had at 12:29 p.m.; proceedings resumed at  
22 1:30 p.m.)

23 THE COURT: Okay. Ready?

24 MR. SCHUMACHER: Yes, sir.

25 THE COURT: Let's invite the jury in.

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1 (Jury in at 1:30 p.m.)

2 THE COURT: Welcome back, please be seated.

3 Please continue.

4 MR. SCHUMACHER: Thank you, Judge.

5 Madame Court Reporter, could we get the Elmo.

6 BY MR. SCHUMACHER:

7 Q. Agent, showing you Government's Exhibit 4002, this is the  
8 first check that was received from doctor -- from Reflections  
9 for Dr. Abovyan, is that right?

10 A. I believe so, yes.

11 Q. And that's dated 8/22/16.

12 A. Yes.

13 Q. For \$11,000, right?

14 A. Yes.

15 Q. Consistent with what we saw in the employment agreement.

16 A. Yes. The exhibit you showed earlier?

17 Q. Yes, sir.

18 A. Yes.

19 Q. The next check is -- it's hard to see -- it's hard to see  
20 the exact date, but we know up here, the posting date is  
21 September 20th of 2016, is that right?

22 A. That's correct.

23 Q. And that's also \$11,000, right?

24 A. Yes.

25 Q. Subsequently -- by the way, there is no notation for either

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1 of those, correct, as far as what it is for?

2 A. That's correct, I didn't see anything in the for line.

3 Q. That changes, however, in October, and I think you told the  
4 jury that Journey to Recovery was starting in October, correct?

5 A. Yes.

6 Q. So beginning in October, now the check -- the monthly check  
7 to Dr. Abovyan is now increased, correct --

8 A. Yes.

9 Q. -- to 19,000?

10 A. Yes.

11 Q. And now for the first time, it indicates detox and  
12 treatment, right?

13 A. Yes.

14 Q. September 11th, 15,300.

15 A. No, that's not September 11th.

16 Q. I apologize. November 15th, 2016.

17 A. November -- the posting date is November 16th, yes. The  
18 date on the check is November 14th.

19 Q. Okay. And the notation is medical director, correct?

20 A. Correct.

21 Q. And finally, the posting date of check number 3096, that's  
22 for 17,300, correct?

23 A. Correct.

24 Q. And again, that indicates medical director, correct?

25 A. Correct.

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1 Q. And I believe your testimony was that Dr. Abovyan never  
2 told you that anything relative to his compensation was  
3 relative to the number of labs, correct?

4 A. Correct.

5 Q. Now, there was a problem between Dr. Abovyan and  
6 Mr. Chatman as you have indicated on direct examination,  
7 correct?

8 A. Yes, that's correct.

9 Q. Specifically, he mentioned to you that it was his  
10 expectation that patients that were discharged for using -- or  
11 I should say abusing drugs, he wanted to discharge them,  
12 correct?

13 A. I'm sorry. Could you repeat that question?

14 Q. Yeah. On direct examination, did you testify that  
15 Dr. Abovyan had a policy that he wanted to follow in the event  
16 that somebody tested dirty?

17 A. Yes.

18 Q. He wanted to discharge them, is that right?

19 A. Yes.

20 Q. And that Kenny Chatman had a different idea, correct?

21 A. Yes, Kenny and Tina Barbuto wanted to keep patients, but  
22 Dr. Abovyan did say that he did discharge many patients.

23 Q. I'm sorry, that he did what?

24 A. He did say to me that he discharged many patients for using  
25 drugs.

1 Q. Okay. Did he tell you -- and then he said he was not  
2 always successful, correct?

3 A. Correct.

4 Q. Did he tell you the number of times that he was not  
5 successful?

6 A. No.

7 Q. Did you ask him?

8 A. I can't recall if I asked him or not.

9 Q. Did he tell you the number of times that he had been  
10 successful in terms of discharging patients that had used?

11 A. I think I asked specifically how many and he didn't have a  
12 number.

13 Q. When you indicated that Dr. Abovyan had said that he had  
14 his people check Reflections out, did you ask him who that was?

15 A. Yes. One of the persons he mentioned was Dr. Cichowicz,  
16 and I believe he said some accountants.

17 Q. Okay. Is that the same Dr. Cichowicz that's actually  
18 mentioned, that we have already talked about that is a  
19 psychiatrist?

20 A. Yes.

21 Q. And the same Dr. Cichowicz that appears on the employment  
22 agreement with Reflections, correct?

23 A. Yes.

24 Q. And you know that Dr. Cichowicz was never charged in  
25 connection with this case, correct?

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1 A. Yes.

2 Q. Did Dr. Abovyan tell you that he trusted his staff at  
3 Reflections?

4 A. Yes.

5 Excuse me, could you clarify that question, staff as  
6 in?

7 Q. Let's start with his nurse practitioners, did he trust  
8 them?

9 A. Yes.

10 Q. Did he trust the clinical staff, did he say one way or the  
11 other?

12 A. He didn't say specifically he trusted them. He did say  
13 that he had the obvious pushback with Tina Barbuto, who was  
14 clinical staff, on discharging.

15 Q. Did he tell you that there was ever a time when he  
16 mistrusted them prior to Reflections being shutdown?

17 A. No.

18 Q. Did you ask him that question?

19 A. I don't think I asked him that specific question.

20 Q. Now he told you, quote, unquote -- I tried to take notes  
21 when you were taking your direct. I think you that said he  
22 liked Suboxone, correct?

23 A. He liked prescribing Suboxone.

24 Q. And he told you he liked it because it saved people's  
25 lives, correct?

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1 MS. VILLAFANA: Objection, Your Honor, hearsay.

2 THE COURT: Overruled, if it's in this same question  
3 and answer.

4 MR. SCHUMACHER: Yes, sir.

5 A. I don't think he said it was saving people's lives, he said  
6 it helped people.

7 BY MR. SCHUMACHER:

8 Q. And what did you understand him to mean when he said that  
9 Suboxone helped people?

10 A. Suboxone can help addicts, I think he said that it takes  
11 some time to get off of opioids and Suboxone helped.

12 Q. So he told you that he believed in prescribing Suboxone,  
13 right?

14 A. Yes.

15 Q. Did you ask him about his Suboxone license?

16 A. No.

17 Q. Why was that?

18 A. At that point, our investigation had not gone into the fact  
19 that he did not have a DEA license.

20 Q. Well, he had a DEA license, he didn't have the X license.

21 A. Correct, he didn't have the X number. And it was after  
22 that interview that he said getting a Suboxone license was part  
23 of his employment, we checked and he did not have the X number.

24 Q. Until later.

25 A. I believe it was from the time he started there until late

1 September 2016.

2 Q. September 20th, I believe it was, correct?

3 A. That's the day it was issued, yes.

4 Q. Okay. Did he ever tell you that he had gone to Mr. Chatman  
5 and told him that -- I think -- you have to refresh my  
6 recollection.

7 Did you testify on direct examination about  
8 conversations that Dr. Abovyan had had with Mr. Chatman when he  
9 first started?

10 A. Yes.

11 Q. Okay. And do you recall him telling you that he had gone  
12 to Mr. Chatman and Mr. Gatt and told them some things?

13 A. Yes, I mean --

14 Q. Okay. Specifically, did he tell them that, in fact, the  
15 panels that they were running were excessive?

16 A. No.

17 Q. He didn't tell you that?

18 A. No.

19 Q. Okay. Did you have other information in this investigation  
20 that suggested that he had told one or more of those people  
21 that?

22 MS. VILLAFANA: Objection, Your Honor, calls for  
23 hearsay.

24 THE COURT: Sustained.

25

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1 BY MR. SCHUMACHER:

2 Q. Did he tell you that he had gone to Mr. Chatman and to  
3 Mr. Gatt and told them that their level of billing; in other  
4 words, a level five was too excessive?

5 MS. VILLAFANA: Objection, Your Honor, hearsay.

6 THE COURT: If it was in connection with the  
7 statement about his conversation with Chatman, I will permit  
8 it.

9 BY MR. SCHUMACHER:

10 Q. Go ahead, sir.

11 A. I don't recall.

12 Q. Would looking at your report refresh your recollection?

13 A. It might, yeah.

14 MR. SCHUMACHER: May I approach, Your Honor?

15 THE COURT: Yes.

16 BY MR. SCHUMACHER:

17 Q. I hand you what has been marked as 6203.

18 A. I think I understand what you are referring to.

19 Q. Okay. Does that refresh your recollection, Agent?

20 A. It does.

21 Q. Okay. And did Dr. Abovyan, in fact, tell you that he had  
22 gone to Mr. Chatman to previously complain about the level of  
23 billing that was going on?

24 A. No. He went to Mr. Chatman and said, Don't order anything  
25 wrong on the UA tests.

1 Q. Okay.

2 MR. SCHUMACHER: Tender the witness, Your Honor.

3 THE COURT: Is there redirect?

4 MS. VILLAFANA: There is, Your Honor.

5 REDIRECT EXAMINATION

6 BY MS. VILLAFANA:

7 Q. Agent Garrity, you just looked at 6203, and remind us what  
8 6203 is.

9 A. That's the 302, the report that was written after  
10 interviewing Dr. Abovyan.

11 Q. And there is nothing in here about level five versus level  
12 three, is there?

13 A. No.

14 Q. Dr. Abovyan did not tell you anything about level five or  
15 level three.

16 A. No.

17 Q. Turning to Exhibit 2001, can you read the paragraph that  
18 begins, Reflections Treatment Center.

19 A. "Reflections Treatment Center will pay \$11,000 per month to  
20 Dr. Abovyan and \$2,000 per month to Dr. Cichowicz."

21 Q. You can stop there. Where does it say that Dr. Abovyan is  
22 paying money to Dr. Cichowicz?

23 A. It doesn't say that.

24 Q. Did Dr. Abovyan tell you that he signed standing orders?

25 A. Yes, he did.



1 Q. And whatever is in there, you order.

2 A. Yes.

3 Q. You were asked about the checks for \$11,000 for August and  
4 September.

5 A. Yes.

6 Q. How much did Dr. Abovyan tell you that he was paid before  
7 you confronted him?

8 A. \$5,000 per month.

9 Q. And you said that Dr. Abovyan told you he discharged many  
10 patients for using drugs. Is that supported by the KIPU files?

11 A. No.

12 MR. SCHUMACHER: Objection, calls for facts not in  
13 evidence.

14 THE COURT: Well, I guess the KIPU files are, but the  
15 objection is sustained as to his interpretation of them.

16 BY MS. VILLAFANA:

17 Q. Did Dr. Cichowicz sign any standing orders?

18 A. No, he did not.

19 MS. VILLAFANA: Nothing further, Your Honor.

20 THE COURT: Thank you, Special Agent.

21 (Witness excused.)

22 MS. VILLAFANA: Your Honor, the United States calls  
23 Special Agent William Stewart.

24 WILLIAM STEWART, GOVERNMENT WITNESS, SWORN.

25 THE COURT REPORTER: Have a seat and please state and

1 spell your name for the record.

2 THE WITNESS: My name is William Stewart, last name  
3 S-T-E-W-A-R-T.

4 MR. SCHUMACHER: I'm sorry, Judge. We will make a  
5 request for *Jencks* material at this point in time.

6 MS. VILLAFANA: You have all of his *Jencks* material.

7 And Your Honor, just for purposes of scheduling,  
8 Special Agent Stewart is our last witness, so I just want the  
9 Defense to know that they need to have a witness available.

10 DIRECT EXAMINATION

11 BY MS. VILLAFANA:

12 Q. Special Agent Stewart, with whom are you employed?

13 A. I'm employed with the Federal Bureau of Investigation.

14 Q. How long have you been employed with the Federal Bureau of  
15 Investigation?

16 A. Just over eight years.

17 Q. What is your title?

18 A. I'm a special agent.

19 Q. Are you assigned to a specific squad?

20 A. I am assigned to a squad that works primarily healthcare  
21 fraud matters, along with other matters.

22 Q. And as part of your duties and responsibilities, do you  
23 give training on any topics?

24 A. I do, I receive training and I give training.

25 I have given a number of training sessions across the

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1 country, both at other FBI divisions and at national  
2 conferences that focus on healthcare fraud and insurance fraud  
3 and that kind of thing.

4 Q. I would like to discuss with you two sets of dates, and I'm  
5 going to begin by placing on the overhead Government Exhibit  
6 5061, and can you remind us what 5061 is.

7 A. 5061 is a chart showing which patient numbers correspond to  
8 the patient names because for purposes of this case, we  
9 assigned numbers to some patients and we assigned numbers to  
10 some labs as well.

11 Q. And that's for privacy reasons?

12 A. That's correct.

13 Q. Let me show you what has been marked for identification as  
14 Government's Exhibit 8 through 12. Can you tell us what  
15 Exhibits 8 through 12 are?

16 A. Eight through 12 are charts that contain different pictures  
17 and information, we call it a link chart. It links information  
18 together and it contains information that is in the indictment  
19 in this case.

20 (Evidence identified as Government Exhibits 8 thru 12.)

21 BY MS. VILLAFANA:

22 Q. And did you and your colleagues prepare 8 through 12?

23 A. I did, we did.

24 Q. And is it a method of pulling together disparate pieces of  
25 evidence?

1 A. It is, it makes evidence easier to summarize and  
2 understand.

3 MS. VILLAFANA: And Your Honor, at this point, we  
4 would move 8 through 12 into evidence.

5 MR. JOFFE: No objection, Your Honor.

6 THE COURT: Eight through 12 are admitted.

7 (Evidence admitted as Government Exhibits 8 thru 12.)

8 BY MS. VILLAFANA:

9 Q. So can you remind us from Government Exhibit 5061 who  
10 patient number one is?

11 A. Patient number one is E [REDACTED] Lo [REDACTED]

12 Q. And showing Government Exhibit 8, can you tell us what is  
13 depicted on Exhibit 8?

14 A. Government Exhibit Number 8 is a pictorial of E [REDACTED] L [REDACTED]  
15 and it shows various things about Mr. L [REDACTED]

16 Q. And was this drawn from KIPU records?

17 A. It was.

18 Q. And from other -- what other records did you look at when  
19 you were preparing this?

20 A. Sure. We looked at KIPU records, we looked at documents in  
21 evidence that were taken from Ms. Tina Barbuto's storage unit,  
22 and for the photographs, we -- you know, we used the driver's  
23 license database to pull out those photos as well.

24 Q. So on Exhibit 8, what do we see?

25 A. On Exhibit 8, you see at the very bottom, there is kind of

1 an unmarked individual called patient number one in a blue  
2 shirt, and it shows -- the pictorial kind of surrounds that  
3 individual and things that relate to him.

4 Q. So specifically, where was Mr. L [REDACTED] receiving treatment?

5 A. He was receiving treatment from Reflections Treatment  
6 Center, which is represented by the building at the top of the  
7 chart.

8 Q. Who was the nominee owner or the owner on paper of  
9 Reflections Treatment Center?

10 A. The owner on paper was Laura Chatman.

11 Q. Who was the true owner?

12 A. Her husband, Kenneth Chatman, was the true owner.

13 Q. Who was serving as clinical director while Mr. L [REDACTED] was  
14 there?

15 A. Tina Barbuto.

16 Q. And during part of the time he was there, was it someone  
17 else?

18 A. It was.

19 Q. Who was that?

20 A. Brad Cohen.

21 Q. Who is not on here.

22 A. Correct.

23 Q. Because this specifically refers to drugs found in  
24 Ms. Barbuto's storage space?

25 A. That's correct.

Friday, November 30, 2018.

1 Q. So who was the counselor assigned to -- or the therapist  
2 assigned to Mr. Lo [REDACTED]

3 A. Anthony Jackson.

4 Q. And were any medications belonging to Mr. L [REDACTED] found in  
5 Ms. Barbuto's storage space?

6 A. Yes, there were.

7 Q. And is that what is shown in the photograph in the lower  
8 right?

9 A. That's correct.

10 Q. And both the photograph and the actual medication is in  
11 evidence, correct?

12 A. That's correct.

13 Q. Now, is Mr. L [REDACTED] referenced in the indictment?

14 A. He is.

15 Q. And is that reference to this medication or a different  
16 medication?

17 A. To this medication.

18 Q. Is it a reference to -- I'm sorry -- this particular  
19 prescription or to a prescription earlier from his time at  
20 Reflections?

21 A. I would have to see the -- I can't see the prescription  
22 bottle well, but I know that exhibits that are in evidence  
23 represent the prescriptions that were charged that relate to  
24 Mr. Lo [REDACTED]

25 Q. Okay. So let's look at Government Exhibit 13. Can you

1 tell us what Government Exhibit 13 is?

2 A. Government Exhibit 13 is a timeline, it is another summary  
3 type exhibit.

4 (Evidence identified as Government Exhibit No. 13.)

5 BY MS. VILLAFANA:

6 Q. And what does it include?

7 A. It includes key dates that relate to the timeline of the  
8 indictment.

9 Q. And is this drawn from evidence that's already been  
10 admitted into -- into evidence here?

11 A. Yes, it is.

12 Q. All right.

13 MS. VILLAFANA: Your Honor, at this point, we would  
14 move Exhibit 13 into evidence.

15 MR. JOFFE: No objection.

16 THE COURT: 13 is admitted.

17 (Evidence admitted as Government Exhibit No. 13.)

18 MS. VILLAFANA: I think you are going to have to  
19 stand and just be careful to keep talking into the microphone.

20 THE WITNESS: Will do.

21 MR. SCHUMACHER: May we move?

22 THE COURT: Yes. He may have to, also, for them to  
23 see it.

24 MS. VILLAFANA: Actually, I think the best place for  
25 you is over here, you will just have to speak up.

1 THE COURT: Or use the handheld microphone if it is  
2 available.

3 MS. VILLAFANA: I'll also put on the overhead the  
4 same exhibit, just normal size, and try to zoom in.

5 BY MS. VILLAFANA:

6 Q. So if you could, tell us where on the timeline there is a  
7 reference to Mr. I [REDACTED]

8 A. Sure. Can you hear me, okay?

9 On the timeline, the --

10 THE COURT: Something is wrong.

11 MS. VILLAFANA: There is a lot of feedback.

12 THE COURT: It is too much static, I think you will  
13 have to sit down.

14 Can we impose upon on you to hold it while he sits at  
15 the table?

16 COURTROOM SECURITY OFFICER: Yes.

17 MS. VILLAFANA: Sorry.

18 BY MS. VILLAFANA:

19 Q. Go ahead, Agent Stewart.

20 A. Okay. On the timeline, if you can see July 20th, 2016,  
21 there is a pill bottle and under it, it says buprenorphine,  
22 prescription for patient number one, and in parentheses it says  
23 count three.

24 Q. So that's the prescription for Mr. I [REDACTED] that was dated  
25 July 20th?

Friday, November 30, 2018.



1 A. That's correct.

2 Q. All right. So let's move to Government Exhibit 9, which  
3 relates to patient number two, correct?

4 A. That's correct.

5 Q. And again, who -- where was patient number two receiving  
6 treatment?

7 A. Reflections Treatment Center.

8 Q. And who was the prescribing doctor for her?

9 A. Dr. Arman Abovyan.

10 Q. Were pills belonging to patient number two found in  
11 Ms. Barbuto's storage space?

12 A. Correct, and that's indicated in the pictorial with the  
13 arrow, where it says found at, pointing to the picture of  
14 Ms. Barbuto's storage unit.

15 Q. Going back to Exhibit 5061, who is patient two?

16 A. H [REDACTED] F [REDACTED]

17 Q. That's Ms. F [REDACTED] who came and testified earlier?

18 A. Yes.

19 Q. Did Ms. F [REDACTED] receive prescriptions that are charged in  
20 the indictment?

21 A. She did.

22 Q. Moving back to Exhibit 13, can you show that to us.

23 A. Sure I can.

24 The portion of the timeline shows July 25th, 2016.

25 Underneath that, it says buprenorphine prescriptions for

Friday, November 30, 2018.

1 patient number two and number three, and in parentheses it says  
2 counts four and five.

3 Q. So count four relates to patient number two and count five  
4 relates to which patient?

5 A. Patient number three.

6 Q. And who is patient number three?

7 A. It's A [REDACTED] C [REDACTED]

8 Q. The prescriptions that are referenced, are they found in  
9 the KIPU files?

10 A. Most of them are.

11 Q. Where else are they found?

12 A. They are found in, I believe it's Exhibits 4 and 5, but  
13 they are from prescriptions that we obtained from Walgreens and  
14 CVS pharmacy.

15 Q. Now, showing you Government Exhibit 10, which patient does  
16 this relate to?

17 A. This is patient number four.

18 Q. And who is patient number four?

19 A. That's D [REDACTED] W [REDACTED]

20 Q. What does Government Exhibit 10 depict?

21 A. It shows that D [REDACTED] W [REDACTED] was a patient at Reflections  
22 Treatment Center, and it shows that medication prescribed to  
23 him by Dr. Abovyan was found in Ms. Tina Barbuto's storage  
24 unit.

25 Q. Are there -- are there any counts that relate to

1 Mr. W [REDACTED]

2 A. Yes, there are.

3 Q. And is that on Exhibit 13?

4 A. It is.

5 Q. Can you tell us about that.

6 A. Sure. If you see the line, on July 27th, 2016, there is a  
7 pill bottle and underneath it says buprenorphine prescription  
8 for patient number four, and in parentheses it says count six.

9 Q. Turning to patient number five and Government Exhibit 11.

10 First of all, who is patient number five?

11 A. Patient number five is C [REDACTED] D [REDACTED]

12 Q. And what does Government Exhibit 11 show?

13 A. It shows that C [REDACTED] D [REDACTED] was a patient at Reflections  
14 Treatment Center and she had medication that was prescribed to  
15 her by Dr. Arman Abovyan, and that medication was ultimately  
16 found in Ms. Tina Barbuto's storage unit.

17 Q. Now, when you say that she had medication prescribed by  
18 Dr. Abovyan, what do the prescriptions show?

19 A. The prescriptions show that Dr. Abovyan was the doctor  
20 whose name was on the prescription, so it was his prescription  
21 pad, it shows his signature on the pad as well, which would be  
22 how the prescription was authorized.

23 Q. Are any counts of the indictment related to patient number  
24 five?

25 A. There are. If you look along the timeline, next line down,

1 on August 3rd, 2016, there is another depiction of a pill  
2 bottle and underneath it says buprenorphine prescription for  
3 patient number five, and in parentheses count seven.

4 Q. Now, if we move along the timeline to the next  
5 buprenorphine prescription that's mentioned, which patient is  
6 that for?

7 A. That's patient number two.

8 Q. And that's the same patient we talked about before,  
9 Ms. F [REDACTED]

10 A. That's correct.

11 Q. And the next date that's on the timeline related to a  
12 buprenorphine prescription.

13 A. It is September -- can I just move that a little, thank  
14 you.

15 It's August 31st -- I'm sorry, did you ask for  
16 patient number six or patient -- you asked for six?

17 Q. Yes, I did.

18 A. August 31st, 2016, it shows a prescription for  
19 buprenorphine for patient number six, which is also count nine.

20 Q. Patient number six is who?

21 A. A [REDACTED] B [REDACTED]

22 Q. And that's the same Ms. B [REDACTED] who came and testified  
23 before us?

24 A. That's correct.

25 Q. Showing Government Exhibit 12, what does Government Exhibit

1 12 show?

2 A. This shows that patient number six, Ms. B [REDACTED] is a  
3 patient at Reflections Treatment Center and it shows that she  
4 had medication prescribed to her by Dr. Arman Abovyan that was  
5 ultimately found in Ms. Barbuto's storage unit.

6 Q. Can you look at -- on Exhibit 12, what was the medication  
7 that was found in Ms. Barbuto's storage space?

8 A. It was an amphetamine, dextroamp, an amphetamine.

9 Q. And is that a schedule two controlled substance?

10 A. I believe it is, yes.

11 Q. Now, if I could ask you to go back to the date on the  
12 timeline, Exhibit 13, with regard to patient number six, can  
13 you tell us again the date?

14 A. Sure. It's August 31st, 2016.

15 Q. And what prescription in particular are we referencing on  
16 Exhibit 13?

17 A. Buprenorphine.

18 Q. So that's a buprenorphine prescription that's the subject  
19 of that count.

20 A. That's correct.

21 Q. And can you tell us again the count number.

22 A. Sure. It's count nine.

23 Q. And if I could direct you to the next buprenorphine  
24 prescription that is on Exhibit 13.

25 A. Sure. It's dated September 1st, 2016, it is a prescription

1 for buprenorphine for patient number four.

2 Q. And just if you could remind us who patient four is.

3 A. Yes, D [REDACTED] W [REDACTED]

4 Q. Are all of the KIPU records for these patients -- have they  
5 been marked and admitted?

6 A. Yes, they have.

7 Q. So on Exhibit 13, are those all of the prescriptions that  
8 are mentioned?

9 A. Correct.

10 Q. And specific counts that are mentioned.

11 A. That's correct.

12 Q. What dates are bracketing those prescriptions?

13 A. July 20th, 2016 is the first date and September 1st, 2016  
14 is the last date.

15 Q. And what are the dates on the timeline that precede  
16 July 20th?

17 A. All of the dates where the prescriptions were prescribed.

18 Q. No. What are the dates that precede July 20th that are on  
19 the Government Exhibit 13; so in other words, the first two  
20 entries?

21 A. Oh, on September 1st.

22 Q. No. The first two entries, please, all the way to the  
23 left.

24 A. July 8th, 2016, the description of that notation is  
25 employment begins at Reflections Treatment Center, and that's

Friday, November 30, 2018.

1 for Dr. Arman Abovyan's employment.

2 Q. Where does that come from?

3 A. That comes from his personnel file.

4 Q. And the next entry?

5 A. It's a letter. So this is July 15th, 2016, this is a  
6 letter that was sent from Reflections Treatment Center to Smart  
7 Lab indicating that there was a new medical director and that  
8 new medical director was approving information that the  
9 previous medical director had not yet approved.

10 Q. So I'm just showing you the first page of 2001 on the left,  
11 is that where the July 15th date comes from?

12 A. That's correct.

13 Q. In the middle of the group of buprenorphine prescriptions,  
14 there are two entries for August 9th. Can you tell us what  
15 those are?

16 A. Sure. The first entry for August 9th is -- it notates  
17 training related to buprenorphine, and the second notates an  
18 application authorizing Dr. Abovyan to prescribe buprenorphine.

19 Q. On the same date as the training certificate, that's when  
20 the application is filed?

21 A. That's correct.

22 Q. And remind us where the certificate of training was found.

23 A. That came from Ms. Barbuto's storage unit.

24 Q. And the application information, that came from where?

25 A. We received that application information from the DEA and

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1 from SAMHSA.

2 Q. Now, the next -- the entry that follows the last of the  
3 charged buprenorphine prescriptions is what?

4 A. That is Dr. Abovyan, it is on September 1st, 2016.  
5 Dr. Abovyan supplemented his application for authorization.

6 Q. So the application is still pending?

7 A. That's correct.

8 Q. And what did he add to supplement it?

9 A. He added documents that were required to be submitted to  
10 SAMHSA and the DEA.

11 Q. How do we know that he did that on September 1st?

12 A. Because we have documentation from SAMHSA and the DEA that  
13 shows that date.

14 Q. What happened on September 14th of 2016?

15 A. SAMHSA approved -- SAMHSA approves application and sends to  
16 DEA registration section.

17 Q. So SAMHSA doesn't have the power to issue X numbers,  
18 correct?

19 A. Correct.

20 Q. Who has the power to do that?

21 A. That's the Drug Enforcement Administration, DEA.

22 Q. What is the next entry on the timeline?

23 A. It is September 20th, 2016, and it says the DEA issues  
24 change of registration and X number.

25 Q. And the next entry?

Friday, November 30, 2018.



1 A. It's October of 2016, it notates that Journey to Recovery  
2 opens during this month.

3 Q. And the last two entry entries?

4 A. Sure. The second to last is December 21st, 2016, and  
5 that's when federal search warrants happened at Reflections  
6 Treatment Center and Journey to Recovery.

7 And the last entry is September 30th, 2016, and  
8 that's when there was a search warrant done at Ms. Tina  
9 Barbuto's storage unit.

10 Q. And the search at Ms. Barbuto's storage unit is where all  
11 of the pills that are shown on 8 through 12 were found,  
12 correct?

13 A. That's correct.

14 MS. VILLAFANA: Thank you very much.

15 BY MS. VILLAFANA:

16 Q. Now, I would like you to focus on the period of time  
17 leading to Dr. Abovyan joining Reflections Treatment Center.

18 A. Okay.

19 Q. Let me show you what has been marked for identification as  
20 Government Exhibit 21. Can you tell us what 21 is?

21 A. This is another summary exhibit that I prepared.

22 (Evidence identified as Government Exhibit No. 21.)

23 BY MS. VILLAFANA:

24 Q. And where did you draw the data from?

25 A. I draw the data from exhibits that are currently in

Friday, November 30, 2018.

1 evidence.

2 MS. VILLAFANA: Your Honor, we would move Exhibit 21  
3 into evidence.

4 MR. JOFFE: No objection.

5 MR. SCHUMACHER: Can we just take a look at that?  
6 Okay.

7 MR. JOFFE: No objection.

8 THE COURT: 21 is admitted.

9 MS. VILLAFANA: Thank you, Your Honor.

10 (Evidence admitted as Government Exhibit No. 21.)

11 BY MS. VILLAFANA:

12 Q. Can you read the -- read it on the screen?

13 A. I can read it.

14 Q. Okay, wonderful. So tell us what the first entry is.

15 A. The first entry is dated March 10th, 2016, and the summary  
16 describing what happened on this date, it says, "First letter  
17 from Smart Lab to Reflections Treatment Center."

18 Q. What does the far right column show?

19 A. It shows the exhibit number which is in this case, GX 2211.

20 Q. Now, I don't know that the jury has seen this exhibit  
21 before, but it has already been admitted into evidence, so  
22 showing 2211, and can you tell us about this letter?

23 A. Sure. This was a letter that was sent from Smart Lab to  
24 Reflections Treatment Center and it's Smart Lab's attempt to  
25 put Reflections Treatment Center on notice that the scientists

1 at Smart Lab were noting irregular samples that were coming  
2 from the patients' urine that was coming from Reflections  
3 Treatment Center.

4 Q. If I could ask you to read the sentence beginning with  
5 specifically.

6 A. Would you mind pulling it out of the plastic.

7 Thank you.

8 Q. It does cause a glare, I apologize.

9 A. And you want me to start with at first?

10 Q. No, specifically.

11 A. Okay. "Specifically, we are seeing a few instances when a  
12 grouping of patient test negative for a drug or drug class upon  
13 admission, but then the group all test positive while in the  
14 program for the same drug or drug class."

15 Q. Continue, please.

16 A. "At first, we thought there may have been an issue with the  
17 testing, so we retested the specimen at no charge to your  
18 facility or patients since this was done to insure accuracy on  
19 our end, and each time the retest came back consistent with the  
20 initial result. This tells us that our test results are  
21 accurate, so then why are these groups of patients testing in  
22 the same pattern?

23 "This could be the result of many things, like being  
24 part of a click or friendship circle where they all  
25 participated in the same event or activity. Whatever it is, we

Friday, November 30, 2018.

1 want to make sure you are aware of this pattern so you can do  
2 what is within your power to curtail this unhealthy practice  
3 since it is getting in the way of their receiving treatment."

4 Q. And I'll ask you to stop there.

5 Are these results that someone checking the test  
6 results on a day-to-day basis would be able to perceive?

7 A. Yes.

8 MR. SCHUMACHER: Objection, speculation, Your Honor.

9 THE COURT: Lay more of a predicate of how you do  
10 that.

11 MS. VILLAFANA: Certainly.

12 BY MS. VILLAFANA:

13 Q. What did the -- what did the people at Smart Lab see?

14 A. They saw kind of what is described as, you know, patients  
15 who came into Reflections Treatment Center as patients who were  
16 providing urine that was initially clean, as in no drugs in the  
17 system, and over time, they were no longer clean; and not just  
18 one patient, but this was happening with numerous patients, so  
19 there was something within the data generated by the lab tests  
20 that show this type of pattern.

21 Q. Now, there is no date on this letter, correct?

22 A. That's correct.

23 Q. But you were able to determine what the date was?

24 A. Correct.

25 Q. And what was the date of that letter?

Friday, November 30, 2018.

1 A. It was March 10th, 2016.

2 Q. Was Dr. Abovyan working at Reflections in March of 2016?

3 A. He was not.

4 Q. What is the second entry?

5 A. The second entry is dated May 16th, 2016 and it is a second  
6 letter from Smart Lab to Reflections Treatment Center.

7 Q. And showing Exhibit 2212, and is this how you were able to  
8 tell that the first letter was dated March 10th, 2016?

9 A. That's correct.

10 Q. If you can just read the first sentence under dear  
11 director.

12 A. Sure. "I would like to follow up on a letter we sent you  
13 on March 10, 2016, wherein we advised you that we were seeing a  
14 pattern of results on select patients' tests come back positive  
15 substances they tested negative for on the initial test. We  
16 are still seeing a patten on your patients and want to make  
17 sure you are aware of the pattern."

18 Q. And does it describe a similar pattern as in the first  
19 letter?

20 A. It does.

21 Q. Now, again, on May 16, 2016, was Dr. Abovyan working at  
22 Reflections?

23 A. No.

24 Q. What is the next entry on your timeline?

25 A. It is June 16th, 2016, and the summary reads, "Dr. Aron

Friday, November 30, 2018.

1 Tendler and Adam Arroyo, ARNP, sign a service agreement with  
2 Reflections Treatment Center."

3 Q. And what exhibit do you reference?

4 A. That is GX 2157.

5 Q. What is the next date on your timeline?

6 A. July 8th, 2016, Dr. Arman Abovyan begins as medical  
7 director at RTC, and that's from GX 2001.

8 Q. And that's the personnel file that we have looked at  
9 multiple times?

10 A. That's correct.

11 Q. What is the next entry?

12 A. The next entry occurs on July 11th, 2016, and the summary  
13 reads, "Tendler," meaning Dr. Tendler, "e-mails urine drug  
14 testing protocol to the e-mail address info@smartlabtest.com.

15 Q. Let me show you 2215 because I don't think we have  
16 discussed it before. Let's start at the bottom of the page,  
17 can you tell us who it is from?

18 A. It is from Aron Tendler, MD.

19 Q. And addressed to whom?

20 A. It is addressed to info@smartlabtest.com.

21 Q. Can you read that e-mail to us?

22 A. Sure. "I only authorize confirmatory drug testing for  
23 clients at Reflections Treatment Center under the following  
24 conditions:

25 "Number one, positive test results on the urine cup

Friday, November 30, 2018.

1 screen that the patient denies, in parentheses, suspected false  
2 positive. Only the specific drug that came up positive should  
3 be confirmed and billed for. The patient's denial must be  
4 documented in writing in the chart before the confirmation is  
5 done by the lab.

6 "Number two, negative test results that are suspected  
7 to be false negatives based on history, current prescriptions,  
8 or collateral information. The confirmation lab is testing for  
9 an adulterant. The rationale for a specific test must be  
10 documented in the chart before being tested by the lab."

11 Q. And page two of 2215 at the top.

12 A. "Checking for the specific enantiomer -- I'm not sure how  
13 to say that word -- of an amphetamine to distinguish between  
14 prescriptions and drugs of abuse similar to paragraphs one and  
15 two."

16 And number four, "Weekly quantification of a chronic  
17 positive THC to check for recent versus remote abuse.

18 "Don't do any confirmations for antidepressants,  
19 anticonvulsants, buprenorphine, et cetera. No other standing  
20 lab tests are approved. Anything else will be ordered on an  
21 individual basis."

22 Q. And who signed it?

23 A. Aron Tendler, MD, and there is an NPI number listed.

24 Q. Now, if we could go to the top of 2215, who is writing the  
25 forwarding e-mail?

1 A. Justin Wayne.

2 Q. Who is Justin Wayne?

3 A. He is the chief operating officer at Smart Lab.

4 Q. And has Justin Wayne been charged?

5 A. He has.

6 Q. Can you -- I'm sorry. Can you read the text of his e-mail.

7 A. Sure, it references the e-mail that I just read below.

8 "We received this from the ordering doctor for  
9 Reflections. This e-mail drastically curbs the testing that  
10 was being performed for RTC patients. Please have the facility  
11 get on the same page with the doctor. See below, all the best,  
12 Justin Wayne."

13 Q. Going back to your timeline, Exhibit 21, what is the next  
14 entry?

15 A. It is on July 15th, 2016 and it's a letter terminating  
16 Dr. Tendler from Reflections Treatment Center effective  
17 immediately.

18 Q. And what exhibit number?

19 A. It is from GX 1334.

20 Q. Is this the letter that you were referring to?

21 A. It is.

22 Q. What is the next entry on your timeline?

23 A. It's the same date as the previous entry of July 15th,  
24 2016, and it's letter from Dr. Abovyan's personnel file, which  
25 is Government Exhibit 2001.

Friday, November 30, 2018.



1 Q. So immediately after Dr. Tendler drastically reduces the  
2 amount of testing, what happens to him?

3 A. He is terminated.

4 Q. And who is hired?

5 A. Dr. Arman Abovyan.

6 Q. What occurs on July 18th, 2016?

7 A. July 18th, 2016, that is the e-mail that I just read, it's  
8 just a continuation of GX 2215, so that's when the forwarded  
9 e-mail they I just read from Justin Wayne occurs.

10 Q. And the next entry?

11 A. July 19th, 2016, and the summary reads, "Smart Lab provider  
12 protocols and standing consent form for Reflections Treatment  
13 Center," bearing Abovyan's signature.

14 Q. So showing you 2208, which the jury has seen before.

15 A. Correct.

16 Q. Now, 2208, the standing consent form, does this authorize  
17 the continuation of the same high level of testing as before?

18 A. It does.

19 Q. And showing 2206.

20 A. This is a urine drug test protocol for Reflections  
21 Treatment Center.

22 Q. What is the frequency guideline?

23 A. Frequency guideline is zero to discharge, two to three  
24 times a week.

25 Q. So from the beginning of treatment until the patient is

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1 discharged, two to three times per week?

2 A. That's correct.

3 Q. Can you read the second full paragraph under the frequency  
4 guideline.

5 A. Sure. It reads, "Urine drug screening will be sent for  
6 urine drug confirmation testing to confirm results, track  
7 quantitative concentrations of specific substances, identify  
8 specific drugs within the drug classes, insure patients are  
9 taking their prescribed medication, insure specimen has not  
10 been tampered with and test for designer drugs."

11 Q. So are you -- does this call for confirming both negative  
12 and positive test results?

13 A. Correct.

14 Q. Does it include testing for antidepressants, Suboxone, and  
15 the other drugs that Dr. Tendler refused to test for?

16 MR. SCHUMACHER: Objection, assumes facts not it  
17 evidence.

18 THE COURT: Overruled.

19 A. Correct.

20 BY MS. VILLAFANA:

21 Q. What is the next entry on your timeline, Exhibit 21?

22 A. Okay. It's July 24th, 2016, and it reads, "Tendler e-mail  
23 to the AHCA office of Inspector General," and that's in  
24 Government Exhibit 19.

25 Q. And that's the e-mail that Ms. Chase read this morning?

1 A. That's correct.

2 Q. And the next entry.

3 A. October 10th, 2016 reads, "Smart Lab provider protocols and  
4 standing consent form for Journey to Recovery bearing  
5 Dr. Abovyan's signature," and that's Government Exhibit 3005.

6 Q. And is this 3005?

7 A. It is.

8 Q. What is the final entry on your timeline?

9 A. The final entry is dated November 12th, 2016, and it is a  
10 letter from Smart Lab to -- actually two letters from Smart Lab  
11 to Reflections Treatment Center and Journey to Recovery  
12 terminating the relationship effective November 30th, 2016, and  
13 those are Government Exhibits 2213 and 3007.

14 Q. So the first thing that I think we need to do is, showing  
15 you 2213 -- let me take them out of the sleeves. Can you tell  
16 us the date on the letter?

17 A. It's November 21st, 2016.

18 Q. So did you transpose the date?

19 A. I did, I said it was November 12th, it is actually  
20 November 21st, 2016.

21 Q. Can I hand you 21 and ask you to make a correction?

22 A. You can. Thanks.

23 Q. Can you read for us what the letter says.

24 A. Sure. It says, "Dear Reflections Treatment Facility  
25 Director, recently your facility came to public attention in an

Friday, November 30, 2018.

1 article alleging several serious improprieties. I would  
2 certainly hope that all of those allegations are untrue. The  
3 appearance of impropriety can potentially have a negative  
4 impact on facilities, such as ours, that provide ancillary  
5 service to your patients.

6 "As such, we no longer wish to continue to perform  
7 testing services for your patients. As a courtesy to you and  
8 your patients, so that you have an opportunity to find a  
9 suitable alternative laboratory, we will continue to process  
10 samples sent to us through November 30th, 2016. However, we  
11 will not accept or process any samples for testing beginning  
12 Decembers 1st, 2016 and into the future.

13 "We apologize for any inconvenience this may cause  
14 you, respectfully, Justin Wayne."

15 Q. And is Government Exhibit 3007 identical, except for the  
16 name of the facility?

17 A. Correct, this one is addressed to Journey to Recovery.

18 Q. Now, you were present in court for the testimony of Bosco  
19 Vega.

20 A. I was.

21 Q. He mentioned someone with the last name Wayne, who was he  
22 talking about?

23 A. He was talking about Hawkeye Wayne.

24 Q. Is Hawkeye Wayne related to Justin Wayne?

25 A. Yes, they are brothers.

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1 Q. And the letters 3007 and 2213 refer to Justin Wayne as the  
2 COO of Smart Lab. What role did Hawkeye Wayne play?

3 A. He was the chief executive officer, CEO.

4 Q. And Mr. Vega testified that Mr. Wayne was paying kickbacks  
5 to Mr. Chatman.

6 A. That's correct.

7 Q. So he was involved in criminal activity.

8 A. That's correct.

9 Q. Even given that on November 21st, they declined to do any  
10 more business with Mr. Chatman?

11 A. Correct.

12 Q. How long after this date was the search?

13 A. It was a month later.

14 Q. And during that entire month, from November 21st on, who  
15 was the medical director?

16 A. Dr. Arman Abovyan.

17 Q. And the public reports that are referenced in 3007 and  
18 2213, did those occur on November 21st?

19 A. They were before November 21st.

20 Q. So there was already, before even these letters went out --

21 MR. SCHUMACHER: Objection, leading.

22 THE COURT: Sustained.

23 BY MS. VILLAFANA:

24 Q. Okay. Before these letters went out in November, what was  
25 available in the public realm?

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1 MR. SCHUMACHER: Objection to hearsay.

2 MS. VILLAFANA: Not offered for its truth, Your  
3 Honor.

4 THE COURT: The objection is overruled as to that  
5 question.

6 Please don't describe what was in those reports.

7 THE WITNESS: There were articles in the public  
8 domain.

9 BY MS. VILLAFANA:

10 Q. About whom?

11 A. About Kenny Chatman and Reflections Treatment Center.

12 Q. During cross-examination, there has been a lot of talk  
13 about Dr. Abovyan's signature, whether it was forged.

14 A. Correct.

15 Q. Did you ask for any handwriting samples or do any  
16 handwriting testing?

17 A. I did not.

18 Q. You were the case agent on the case?

19 A. Yes, I am.

20 Q. Can you just explain what a case agent is so the jury  
21 knows.

22 A. Sure. A case agent is the -- one of the agents assigned to  
23 the case in chief. In this case, for example, I'm a case  
24 agent, I also have a number of co-case agents that assist.

25 There is also case agents from other agencies, we

1 have multiple agents from different agencies working on this  
2 investigation, and each of those individuals from their  
3 respective agency will have a case agent in charge of the case  
4 as well.

5 Q. So for the FBI, you were in charge.

6 A. That's correct.

7 Q. And why did you not send any handwriting samples out for  
8 testing?

9 A. There is a number of reasons. I have actually never sent  
10 any in any of my cases, have never done a handwriting analysis,  
11 I have never sent it out.

12 But in this case, the decision was not even  
13 considered to have a handwriting analysis done because when  
14 interviewed, you know, Dr. Abovyan admitted to signing certain  
15 documents. Not only that, other witnesses that we interviewed  
16 told us that they saw Dr. Abovyan signing certain things.

17 Q. So specifically with regard to standing orders, what was  
18 your information about what Dr. Abovyan had said?

19 A. My information was that Dr. Abovyan signed those standing  
20 orders.

21 Q. And prescription notepads.

22 A. My information was that he had signed those prescription  
23 notepads.

24 Q. Let's just take a look at 3005 as an example. Remind us  
25 what this is.

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1 A. This is a standing order, this is for Journey to Recovery,  
2 and it's a Smart Lab document, so it is a standing order for  
3 Smart Lab.

4 Q. And this is one of the documents that Dr. Abovyan admitted  
5 to signing?

6 A. That's correct.

7 Q. Just showing you Government Exhibit 15, can you remind us  
8 what Government Exhibit 15 is?

9 A. Sure, this is a stipulation regarding public records  
10 related to this case.

11 Q. And it was admitted into evidence?

12 A. That's correct.

13 Q. Turning to page two, whose signature appears on the bottom?

14 A. Dr. Arman Abovyan.

15 Q. Is that signature identical to 3007?

16 MR. SCHUMACHER: Objection, well beyond the scope of  
17 this witness, he has not been tendered as an expert.

18 THE COURT: I think I'm going to sustain that. The  
19 jury is the fact finder in the case, and they are prepared --  
20 will make that decision.

21 MS. VILLAFANA: Okay. I have nothing further. Thank  
22 you very much.

23 MR. SCHUMACHER: Marie, could you leave those there,  
24 please.

25 MS. VILLAFANA: Sure.



1 MR. SCHUMACHER: Thank you.

2 CROSS-EXAMINATION

3 BY MR. SCHUMACHER:

4 Q. Agent, I've got Government's Exhibit 3005 up on the Elmo.  
5 This is the document indicating -- what it's titled is provider  
6 protocols and standing consent form, correct?

7 A. Correct.

8 Q. And this is dated October 10th, 2016.

9 A. That's correct.

10 Q. Would you say that this is the same form? This is  
11 Government's Exhibit 2208, the same form as far as the actual  
12 content except that it is dated July 19th?

13 A. It appears to be the same form, but if you could flashback  
14 to the other one --

15 Q. Yes, sir.

16 A. -- for a moment and scroll up. So one is for Journey to  
17 Recovery, and one is for Reflections.

18 Q. Let me zoom out a little bit. They are for different  
19 locations, is that what you are saying?

20 A. That's correct.

21 Q. I'm going to hand to you 2008, and since it is the same  
22 form, maybe I can show it simultaneously on 3005.

23 A. Okay.

24 Q. Take a look at that, Agent. Can you tell me where it says  
25 that 100 plus labs are going to be run each time that a patient

Friday, November 30, 2018.

1 orders -- or excuse me, that a doctor orders a lab?

2 A. I don't see that on this form.

3 Q. You don't see that?

4 A. No.

5 Q. Okay. Will you point to the jury where it says that  
6 anything in excess of 12 things, 12 substances are going to be  
7 tested for?

8 A. I don't see on this form where it notes a number of panels  
9 to test for.

10 Q. Okay. So this is a standing consent form and as I read it,  
11 it says that, "I, the undersigned provider, strive to integrate  
12 drug testing into many aspects of the healthcare services to my  
13 patients to facilitate identification and intervention with  
14 problematic drug use and to manage patient care during and  
15 after treatment." You see that, right?

16 A. I do.

17 Q. "In order to insure my timely provision of care and improve  
18 my patient's timely access, I'm instructing Smart Labs, as  
19 indicated below and issue this standing consent form."

20 So again, I know that I'm looking at the Smart Lab  
21 standing discovery -- excuse me, standing consent form for  
22 Journey to Recovery dated October -- excuse me, yes,  
23 October 10th, but you tell me as we go along here if there is  
24 anything different about the July standing consent form for  
25 Reflections, okay?

Friday, November 30, 2018.

1 A. Okay.

2 Q. "My urine drug testing and compliance protocols for," in  
3 this case, "Reflections, include the following:

4 "Number one, the patient's chart will be reviewed to  
5 determine if laboratory tests need to be ordered or requested  
6 and to insure that each ordered test is appropriate for each  
7 patient."

8 You would agree that that doesn't give a standing  
9 order for anybody to order 100 plus labs, right?

10 A. This note by itself, no.

11 Q. Okay. "Laboratory tests -- number two, "Laboratory tests  
12 will be ordered or requested under primary provider's name and  
13 in accordance with the primary provider's protocols and this  
14 standing consent."

15 Again, nothing that would suggest to a doctor the  
16 number of labs that are going to be run on any particular  
17 specimen.

18 A. It doesn't list the number of labs under specimen.

19 Q. "Each laboratory test ordered must be appropriate and be  
20 necessary for the patient's personal set of clinical  
21 circumstances"; again, no indication as to the number of labs,  
22 correct?

23 A. That's correct.

24 Q. By the way, you don't know whether or not the patient's  
25 chart was reviewed in any instance when labs were ordered, do

1 you, sir, you weren't present for that?

2 A. I was not present for patient chart reviews, no.

3 Q. Number four, "I acknowledge and agree that only toxicology  
4 testing that is medically necessary in my professional opinion  
5 and professional experience will be ordered by me or those  
6 professionals under my control or supervision in my practice";  
7 again, quantity is not talked about, correct?

8 A. Correct.

9 Q. Okay. And I'm not going to read the last two provisions,  
10 but reviewing lab results, "I agree to review lab results," I  
11 being Dr. Abovyan, "and qualitative or quantitative urine drug  
12 testing to verify compliance with treatment or identify  
13 disclosed drug use or abuse as considered medically necessary";  
14 again nothing as it relates to quantity, right?

15 A. That's correct.

16 Q. Now, law enforcement also had -- well, we can agree that  
17 both on October 10th and the date of Government's Exhibit 2208  
18 was?

19 A. The date here is July 19th, 2016.

20 Q. So after Dr. Abovyan had taken over, correct?

21 A. Correct.

22 Q. At Reflections.

23 A. Correct.

24 Q. Underneath any of the -- at the bottom of these -- at the  
25 bottom of both forms, 2208 and 3005, Dr. Abovyan says, "I will

Friday, November 30, 2018.

1 notify Smart Lab immediately if I no longer work with the  
2 facility named above or I choose to revoke or modify this  
3 standing consent," you see that, right?

4 A. I do.

5 Q. And right below whoever signed this, there is a standing  
6 recurring authorization, "This standing consent will remain in  
7 effect unless I cancel or revoke," okay.

8 So I think what I'm trying to demonstrate to you and  
9 to the jury is that there was nothing contained in here that  
10 would have put Dr. Abovyan on notice, if he signed this  
11 document, that Reflections is going to order 100 plus panels  
12 three times a week, right?

13 A. On this specific form, no.

14 Q. Yes, sir, okay.

15 And then he also signed or is alleged to have signed  
16 2209, is that right?

17 A. That's correct.

18 Q. And again, I know it is difficult to see in the paper.

19 So according to this -- do we have a date on this, by  
20 the way, sir? This is Government's Exhibit 2209.

21 A. I don't see the whole document from the way you have it,  
22 but I did not see a date on there.

23 MR. SCHUMACHER: Let me -- could I just hand that up  
24 for a moment, Judge?

25 THE COURT: Yes.

1 BY MR. SCHUMACHER:

2 Q. So there is no date on that, right?

3 A. Correct.

4 Q. But this document actually does talk about some  
5 quantitative numbers, correct?

6 A. Correct.

7 Q. It talks about -- and again, this is purported to be signed  
8 by Arman Abovyan, correct?

9 A. That's correct.

10 Q. It says, "Point of care cup testing will be used for rapid  
11 detection and the specimen will be sent to a separate lab for  
12 confirmation," do you see that?

13 A. I see that.

14 Q. Frequency guidelines, and this is the quantitative part of  
15 it I wanted to bring to your attention, "From baseline to  
16 sobriety," what does baseline mean, do you know?

17 A. I'm assuming baseline refers to where the patient is at the  
18 time of admission.

19 Q. Okay. So assuming, again, Dr. Abovyan signs this document,  
20 what he is signing is frequency guidelines from baseline to  
21 sobriety of two to three scheduled times per week, right, and  
22 up to two random times per week, right?

23 A. Correct.

24 Q. Then from three to six months of treatment and sobriety,  
25 one scheduled time per week and up to two randoms per week,

Friday, November 30, 2018.

1 correct?

2 A. That's correct.

3 Q. Can we agree, sir, that based on your review of KIPU  
4 records, there weren't a lot of patients that were there  
5 between three and six months, correct?

6 A. I don't have the number, but there were some.

7 Q. There were some, but very few, correct?

8 A. Again, I don't know.

9 Q. Okay. And then from six to 12 months, one scheduled  
10 monthly, do we have any that were there that long?

11 A. Some.

12 Q. Was that followed?

13 A. I don't know, I didn't analyze the files in that way.

14 Q. Was the three to six months of treatment to sobriety  
15 followed as far as the protocols?

16 A. I don't think these protocols were followed based on  
17 looking at the file.

18 Q. Do you have an independent recollection of that?

19 A. I have looked at many files.

20 Q. And again, you said that there were some people there from  
21 three to six months, right?

22 A. Correct, and those that were there from three to six  
23 months, I never did any type of review or analysis to see if  
24 one scheduled time per week and up to two randoms per week was  
25 actually fulfilled, I just never did that type of analysis.

Friday, November 30, 2018.

1 Q. Okay. Now, you mentioned to the jury that you didn't order  
2 any type of handwriting examination in this case.

3 A. That's correct.

4 Q. And you know that as the Government, you have the burden of  
5 proving somebody guilty beyond a reasonable doubt, right?

6 A. We do.

7 Q. You knew that you had the ability to do that, correct?

8 A. I suppose so.

9 Q. Well, maybe you didn't know. According to your testimony,  
10 you have never ordered that.

11 A. I never have, but I would imagine if there was a need, you  
12 know, that I could go to my superiors and find out how to do  
13 it.

14 Q. So you decided to make that decision that ultimately the  
15 jury has to make that determination as to whether or not that's  
16 affecting your case, right?

17 A. Yes.

18 Q. Okay. By the way, you indicated that part of the reason  
19 why you didn't do that is because Dr. Abovyan had already  
20 indicated that he had signed some of these documents, correct?

21 A. That's correct.

22 Q. Was he ever presented even one time with any of these  
23 documents to look at and say, I remember signing that?

24 A. I don't believe he was, during his interview, presented  
25 these.



1 Q. I apologize, I don't have the exhibit in front of me. Are  
2 you aware of the photocopy for testing that had been duplicated  
3 multiple times with the Whiteout that we have seen several  
4 times?

5 A. I am.

6 Q. You are familiar with that exhibit?

7 A. Yes.

8 Q. And you would also agree that Dr. Abovyan was never  
9 presented with that particular document to say, Did you sign  
10 this?

11 A. I would agree with that.

12 Q. Or to explain why there is it Whiteout on it and why it is  
13 duplicated over and over again.

14 A. That was not presented to him.

15 Q. And by the way, when Agent Gerrity went out to speak to  
16 Dr. Abovyan, that was at your direction as the case agent,  
17 correct?

18 A. No. I don't -- I'm not the actual boss, I'm just the --  
19 you know, the lead person, so we work in a team atmosphere, so  
20 it's not like I have any managerial or authority over, you  
21 know, the other folks on the team.

22 Q. Okay. So everybody kind of does whatever they want to do?

23 A. No. Like I said, it is like a team type of environment,  
24 where we discuss things and we decide on how best to go  
25 forward.

Friday, November 30, 2018.

1 Q. Okay. Did you know, for instance, that Special Agent  
2 Gerrity was going to go out and meet with Dr. Abovyan?

3 A. I did.

4 Q. Did you know he was going to actually ask him to give a  
5 statement?

6 A. I knew he was going to interview Dr. Abovyan.

7 Q. And you helped or assisted him in giving him documents to  
8 show to Dr. Abovyan if necessary, right?

9 A. I don't remember specifically, but generally, what we do  
10 when we assign out who needs to be interviewed and when, the  
11 person, the agent, the analyst who are assigned to a specific  
12 individual, they usually do the research and the pulling of  
13 documents, or in some cases, pictures, videos, recordings that  
14 are presented to the witness.

15 Q. I mean, there has been, at any given time, eight people  
16 sitting over on the Government's side of the case, right, in  
17 the courtroom?

18 A. I haven't counted, but that's a fair estimate.

19 Q. I counted. So eight people, were there even more people  
20 working on this case with Dr. Abovyan?

21 A. Dr. Abovyan specifically, I can't say, but this is part of  
22 a much larger case.

23 Q. Who decided what documents to go out and present to him,  
24 and say, Hey, Dr. Abovyan, we want to ask you about these  
25 documents, who decided that?

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1 A. Like I mentioned earlier, usually the person assigned to  
2 the interview does the research and pulls the documents.

3 Q. So you are saying Agent Gerrity would have done that.

4 A. Sure. And like I also mentioned earlier, you know, we work  
5 together, so I don't remember specifically meeting, but a lot  
6 of times, we will decide, Hey, here's some documents to show,  
7 here's some recordings or photos.

8 Q. Okay. Well, again, knowing the burden that the Government  
9 has, can you explain to this jury why it was you decided not to  
10 send Agent Gerrity out and say to Dr. Abovyan, Dr. Abovyan, did  
11 you sign this standing discovery -- this standing consent form  
12 on October 10th?

13 A. Yeah, I didn't say that that was my decision not to show  
14 Dr. Abovyan.

15 Q. And you don't know why it was never shown to him, correct?

16 A. I don't know why.

17 Q. Okay. You knew in this case that prior to -- prior to  
18 seeking an indictment of Dr. Abovyan, that he hadn't been  
19 presented with any of the documents that allegedly bore his  
20 signature, correct?

21 MS. VILLAFANA: Your Honor --

22 MR. SCHUMACHER: I'll withdraw the question, Your  
23 Honor.

24 BY MR. SCHUMACHER:

25 Q. You also indicated that part of the reason why you didn't

1 have an examination done of any of the documents was because  
2 you had other witnesses that suggested that Dr. Abovyan had  
3 signed some of those documents, correct?

4 A. That, and Dr. Abovyan himself.

5 Q. We already covered that, I'm talking about now other  
6 individuals. Your second reason for not asking for  
7 examinations to be done was because you had other witnesses --

8 A. That's correct.

9 Q. -- that identified that.

10 A. Correct.

11 Q. These were all witnesses that were cooperating with the  
12 Government, correct?

13 A. Correct, in some fashion.

14 Q. Okay. They were all looking to -- can we agree, trying to  
15 get some type of deal?

16 A. That's not correct.

17 Q. That's not correct?

18 A. No.

19 Q. Which people that were indicted in any of the surrounding  
20 cases came in and identified Dr. Abovyan's signature that  
21 didn't ultimately have cooperation language in their plea  
22 agreement?

23 A. Well, that's a slightly different question than the  
24 previous one you asked. You asked if all of the individuals  
25 who could provide testimony as to signatures were doing so for

1 a deal, and my answer to that is not all of the individuals who  
2 cooperated and provided information were indicted or even  
3 facing an indictment.

4 Q. Okay. Let me be more specific. For the people that  
5 identified his signature, many of them had been indicted,  
6 correct?

7 A. That's correct.

8 Q. Okay. And in each of those instances, there were people  
9 that had cooperation language in their plea agreement.

10 A. That's correct.

11 Q. Similar to the cooperation language that we have seen in  
12 the ones that have been introduced into evidence, right?

13 A. That's right.

14 Q. So you understood that they understood that they had the  
15 ability to possibly cooperate and get a lower sentence, right?

16 A. That's correct.

17 Q. So they had a benefit potentially involved.

18 A. Potentially.

19 Q. Okay. You have seen the lab requests that went out to  
20 Allied Labs and Smart Lab, the big boxes that we don't need to  
21 drag out again?

22 A. I have seen them.

23 Q. And you knew that not only Dr. Abovyan's name was contained  
24 on those requesting forms, but also Dr. Tendler, correct?

25 A. Correct.

1 Q. And you also saw in the KIPU files a number of return  
2 results where it indicates that Dr. Tendler was the ordering  
3 physician, correct?

4 A. Correct.

5 Q. So is it your testimony that in spite of the letters and  
6 correspondence from Dr. Tendler --

7 MR. SCHUMACHER: Excuse me one second, Judge.

8 BY MR. SCHUMACHER:

9 Q. Okay. Dr. Tendler sends this e-mail, Government's Exhibit  
10 19, right, that we have had read out loud to the jury?

11 Correct?

12 A. That's correct.

13 Q. And this is on July 24th, correct?

14 A. Correct.

15 Q. Well, July 17, but it actually indicates that it was sent  
16 July 24th, right?

17 A. Right.

18 Q. Okay. And we agree that this is after Dr. Tendler had  
19 already been discharged --

20 A. It is.

21 Q. -- from RTC.

22 A. It is after, correct.

23 Q. So many of these labs were ordered before Dr. Tendler  
24 actually resigned or was fired, correct?

25 A. Supposedly ordered.

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1 Q. Well, his name appears on the lab results, can we agree to  
2 that?

3 A. His name does appear on --

4 Q. I don't need to get out the KIPU files and go through them,  
5 the same ones I cross-examined witnesses on, right?

6 A. No, his name was on the results.

7 Q. So Dr. Tendler apparently was not in for a penny, in for a  
8 pound on this whole testing thing, right, according to this  
9 e-mail.

10 A. If you can clarify what you mean?

11 Q. Yeah. He had lodged an objection to the owners of  
12 Reflections, right?

13 A. Correct.

14 Q. About the testing.

15 A. Yes.

16 Q. And ultimately, according to the evidence, that's why he  
17 was terminated, right?

18 A. Correct.

19 Q. In spite of that, during the month or so that he was there,  
20 apparently labs were being ordered, full-blown labs, correct?

21 A. Correct.

22 Q. Labs that were exactly like the ones that were ordered by  
23 Dr. Abovyan during his tenure, correct?

24 A. Correct.

25 Q. 100 plus panels, right?

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1 A. That's right.

2 Q. So is it your testimony before this jury that Dr. Tendler  
3 at some point in time wanted those labs to be ordered?

4 A. Based on the e-mail that he sent directly to Smart Lab and  
5 on this complaint to ACCA, he did not want those.

6 Q. He did not want them, so who ordered those labs for  
7 Dr. Tendler, sir?

8 A. I can't say.

9 Q. Well, can we say unequivocally that it was someone at  
10 Reflections?

11 A. It was part of what Reflections was set up to do.

12 Q. It was a billing machine, wasn't it, sir?

13 A. It was.

14 Q. Mr. Chatman had created a system to bilk healthcare,  
15 correct?

16 A. That's correct.

17 Q. And he did that based upon a series of kickbacks,  
18 fraudulent documents, correct?

19 A. Correct.

20 Q. Including requests for labs, 100 plus panels, from  
21 Dr. Tendler that he didn't know about, is that right?

22 A. He eventually found out about them.

23 Q. Right. But he didn't know when those lab requests went in,  
24 did he?

25 A. I don't know if he knew when they went in, but within



1 approximately one month of starting -- less than a month of him  
2 starting, he basically blew the whistle and went directly to  
3 Smart Lab.

4 Q. We heard testimony here in court from witnesses who were  
5 actually at Reflections, people that worked there, right?

6 A. Right.

7 Q. And we heard that those people said that there were times  
8 when there were no labs even showing on the KIPU when they  
9 logged in, right?

10 A. That's correct.

11 Q. There was at least one witness that said -- actually I  
12 think it is Dr. Tendler in this particular letter of -- I'm  
13 sorry, e-mail of July 24th, he says that there are times when  
14 the lab reports don't even show up, right?

15 A. That's correct.

16 Q. Until months later --

17 A. Right.

18 Q. -- right?

19 A. That -- right.

20 Q. And can we agree, sir, that some of those labs -- do you  
21 remember me cross-examining witnesses about the labs that came  
22 in, who ordered the labs, and then it just so happens that  
23 months later, it is Dr. Abovyan's signature on those labs?

24 A. I'm sorry, can you repeat that.

25 Q. Yes, sir. Do you remember that during the course of this

1 trial, there were witnesses that were asked about lab results  
2 that came back that were ordered by Dr. Tendler?

3 A. Yes.

4 Q. Do you remember the multicolored lab results that came back  
5 from Smart Lab?

6 A. I do.

7 Q. And it actually showed in magenta or something like that if  
8 somebody tested positive.

9 A. Right.

10 Q. And then on the back of those forms, there is an electronic  
11 signature allegedly from Dr. Abovyan, right?

12 A. There is an electronic signature on those forms.

13 Q. And in some instances, months later, after they have been  
14 ordered.

15 A. Correct.

16 Q. Is it your testimony before this jury that Dr. Abovyan had  
17 an obligation to somehow or another go back and rethink what  
18 Dr. Tendler had ordered months before that?

19 A. He had an obligation to review what he was ordering.

20 Q. What Dr. Tendler had ordered?

21 A. Or what he was ordering himself, what Dr. Abovyan was  
22 ordering.

23 Q. He was remiss, correct, in not doing that, that's your  
24 testimony?

25 A. Correct.

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1 Q. Okay. The issue is why, can we agree to that?

2 A. Why what?

3 Q. Why he was remiss, correct?

4 A. In what way do you mean?

5 Q. Well, I'm saying that the ultimate issue for this jury to  
6 decide is whether or not he did it out of ignorance,  
7 carelessness or some type of criminal intent, can we agree to  
8 that?

9 A. Yes.

10 MR. SCHUMACHER: Could I have a moment, Judge?

11 THE COURT: Yes.

12 MR. SCHUMACHER: I tender the witness, Your Honor.

13 THE COURT: Is there redirect?

14 MS. VILLAFANA: There is, Your Honor.

15 REDIRECT EXAMINATION

16 BY MS. VILLAFANA:

17 Q. Special Agent Stewart, let me start with the last question.

18 The issue of criminal intent and what the intent is  
19 that Dr. Abovyan had to have in order to find him guilty is  
20 something that Judge Middlebrooks will instruct the jury about,  
21 correct?

22 A. That's correct.

23 Q. That's not something that you are here to testify about.

24 A. No, I'm here testify to the facts of the case.

25 Q. Thank you.

1           One question on cross-examination was whether  
2 Reflections was a billing machine. First of all, what did  
3 Reflections bill for?

4 A. Reflections billed for treatment, such as IOP, which stands  
5 for intensive outpatient programs; PHP, these are therapy type  
6 sessions. So they billed for those and they also, at least in  
7 some cases, billed for the point of care urine collection  
8 tests.

9 Q. So the testing with the multicolored test results from  
10 Smart, Allied, ACS, who was doing the billing for that?

11 A. That billing was done by the lab that actually did the  
12 testing.

13 Q. Now, with regard to both the Reflections' billing and the  
14 lab billing, was a doctor's signature required?

15 A. Yes.

16 Q. And was that doctor Dr. Abovyan during the period that he  
17 was medical director at Reflections and medical director at  
18 Journey?

19 A. Yes.

20 Q. Let me show you 3006, what is 3006?

21 A. This is a urine drug testing protocol for Journey to  
22 Recovery.

23 Q. Does it talk about frequency?

24 A. It does.

25 Q. And from baseline to sobriety is what?

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1 A. That is two to three scheduled times per week and up to two  
2 random times per week.

3 Q. So what is the maximum per week that Dr. Abovyan approved?

4 A. Five.

5 Q. And can you read the sentence beginning, point of care cup  
6 testing.

7 A. Sure. "Point of care cup testing will be used for rapid  
8 detection and the specimen will be sent to a separate lab for  
9 confirmation."

10 Q. What is confirmation?

11 A. Confirmation is laboratory testing, so it is the -- what we  
12 have been talking about is the 100 panel drug tests, so it is  
13 the tests that are sent to the lab and run through a machine to  
14 confirm what is in the urine.

15 Q. And that's the type of testing that was done by Allied, ACS  
16 and Smart Lab.

17 A. Correct.

18 MR. SCHUMACHER: Objection, leading.

19 THE COURT: Sustained.

20 BY MS. VILLAFANA:

21 Q. Who were the labs or which were the labs that performed the  
22 confirmatory testing?

23 A. Smart Lab was one, Allied, ACS, and others.

24 Q. If I could ask you to read the paragraph beginning urine  
25 drug POC.

1 A. Sure. "Urine drug POC testing will be sent for the  
2 confirmation -- I'm sorry, "will be sent for urine drug  
3 confirmation due to the limited screening ability of POC tests  
4 and the rate of false positives and false negatives, also to  
5 track quantitative concentrations of specific substances,  
6 identify specific drugs within the drug classes, insure  
7 patients are taking their prescribed medication, insure  
8 specimen has not been tampered with, and test for drugs that  
9 are not available with POC screening."

10 Q. And tell us again what POC is.

11 A. That's the point of care, which is the cup we have referred  
12 to.

13 Q. All right. So with the point of care, what were the number  
14 of classes that were available?

15 A. Usually between nine and 12 drug classes in the point of  
16 care cup.

17 Q. And this is authorizing testing of more than those 12  
18 classes?

19 A. That's correct.

20 Q. Does this authorize testing for prescription drugs that are  
21 not addictive?

22 A. That's correct.

23 Q. And if I could ask you to read the last paragraph,  
24 beginning, I have determined.

25 A. Sure. It reads, "I have determined and hereby confirm that

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1 the urine drug screening and confirmation tests ordered by me  
2 are medically necessary for the diagnosis and treatment plan  
3 and will be documented in patients' charts as medically  
4 necessary."

5 Q. Now, with regard to the question about whether it was  
6 Dr. Abovyan's obligation to authorize testing that was done  
7 while Dr. Tendler was medical director, if I can direct you to  
8 2001 and the first page. Can you read again under to whom it  
9 may concern.

10 A. Sure. "I am the new medical director for Reflections  
11 Treatment Center. Prior to my hire, the medical director left  
12 his post without reviewing and signing off on client charts.  
13 We have been unsuccessful in our attempts to reach him and  
14 rectify this situation. As a result, I have reviewed the  
15 orders and progress notes, I agree with the factual and medical  
16 recommendations of the previous medical director."

17 Q. Now, from the e-mail from Dr. Tendler, which is Exhibit 19,  
18 do we know if any of that is true about Reflections not being  
19 able to reach him?

20 A. That's actually the opposite of what this letter says, what  
21 this e-mail says.

22 Q. But does Dr. Abovyan say that he reviewed Dr. Tendler's  
23 work and he agrees with it?

24 A. It says he agrees with it.

25 Q. And have --

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1 A. And reviewed it.

2 Q. And during the course of the trial, have there been medical  
3 necessity statements signed by Dr. Abovyan shown to the jury?

4 A. Yes, there have.

5 Q. What do those medical necessity statements say?

6 A. They stated that Dr. Abovyan deemed them medically  
7 necessary and thus, he approved them.

8 Q. Did some of those predate his work at Reflections?

9 A. They did.

10 Q. Was Dr. Tendler able to find the lab results -- ask for the  
11 lab results and review them?

12 A. He was not.

13 Q. Did he eventually find them and get them?

14 A. I don't believe so, I'm just looking to the form to  
15 confirm.

16 I don't see it on this portion of what's being shown,  
17 but I know from reviewing the document, he was unable to access  
18 the urine drug results and other testing results.

19 Q. And what did he do because of that?

20 A. He sent an e-mail directly to the lab, Smart Lab, which was  
21 the laboratory that was running the tests. He sent it to  
22 info@smartlabtest.com, completely bypassing Reflections  
23 Treatment Center and telling the lab what he, himself,  
24 authorized.

25 Q. And let me direct you to paragraph seven of Exhibit 19.



1 A. Do you want me to read it?

2 Q. Yes, please.

3 A. "Patients had multiple, in parentheses, three times a week,  
4 weekly urine toxicology confirmations without any preceding  
5 urine drug screens. Patients admitted for several months only  
6 had three urine drug screens, but they had numerous urine  
7 toxicology confirmations. Confirmations were routinely being  
8 performed on negatives and positives, including prescriptions  
9 that patients are known to be taking, such as Trazodone and  
10 buprenorphine."

11 Q. And paragraph nine.

12 A. "I was asked to sign standing orders for DNA testing  
13 without any clinical rationale."

14 Q. So did Dr. Tendler get to see test results?

15 A. He did not.

16 Q. Well, then how did he know that patients had multiple three  
17 times a week urine toxicology confirmations?

18 A. He prepared this letter with Dr. Arroyo, so between  
19 Dr. Tendler or his nurse practitioner, they were able to  
20 understand what was being reviewed and what the results would  
21 have been.

22 Q. So could Dr. Abovyan do the same?

23 A. Yes.

24 Q. And in the KIPU records, does it say that he, indeed,  
25 reviewed the lab reports?

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1 A. Yes.

2 Q. And showing you Exhibit 3005, can you read the second from  
3 the bottom bullet point.

4 A. "I would review the laboratory test results."

5 Q. Who is it signed by?

6 A. Dr. Arman Abovyan, MD.

7 MS. VILLAFANA: Nothing further, thank you.

8 THE COURT: Thank you, sir.

9 (Witness excused.)

10 MS. VILLAFANA: Your Honor, at this point, the United  
11 States rests.

12 THE COURT: All right. It's time for our break, in  
13 any event, so let's take a 15 minute break.

14 I may send Genny with further order to you over the  
15 course of this break, so try to stay near, don't wander too  
16 far.

17 COURTROOM SECURITY OFFICER: All rise.

18 (The jury retired from the courtroom at 3:01 p.m.)

19 THE COURT: Okay. Please have a seat.

20 Before we get to motions or anything like that, what  
21 do you all plan to do and do you have witnesses today you want  
22 to have the jury hear?

23 MR. JOFFE: Judge, no. It was our -- is this door  
24 closed? I think it's closed.

25 No. It was my understanding that the Government

1 would rest on Tuesday. And, you know, I at least have  
2 consistently spoken to Counsel for the Government and couldn't  
3 get an answer. That's one of the reasons I brought it up the  
4 other day with the Court.

5 We have Mr. Pullen, he lives Miami and he lives in  
6 Madrid, he's going to be here -- he'll fly in on Tuesday, I  
7 spoke with him last night.

8 THE COURT: My question was whether you have people  
9 for 15 minutes from now.

10 MR. JOFFE: No, Judge, not today.

11 THE COURT: Monday you have to have people here.

12 MR. JOFFE: We will have people here.

13 THE COURT: All right. My question -- what I'm  
14 worried about is whether we keep the jury here today --

15 MR. JOFFE: No.

16 THE COURT: -- or whether you have anybody.

17 MR. JOFFE: No, you can let them go, Judge.

18 THE COURT: And the first notice you all gave was  
19 before that witness that you were finishing?

20 MS. VILLAFANA: That we were going to finish today,  
21 yes. We shortened our day. We did notice one of the defense  
22 witnesses was present in court this morning, I don't know if he  
23 is still here.

24 MR. JOFFE: He is not the witness, Judge. He works  
25 with Mr. Shechter, he was just here to listen to the financial

1 person give her testimony.

2 THE COURT: So you don't have anybody today --

3 MR. JOFFE: No, sir.

4 THE COURT: -- is the short answer.

5 MR. JOFFE: No, sir.

6 THE COURT: Why don't we send the jury home.

7 MR. JOFFE: Yes, sir.

8 THE COURT: And then we will take up other matters.

9 MR. JOFFE: Certainly, Judge.

10 THE COURT: Are they still here? See if we can  
11 invite them back in and then I'll tell them not to talk to  
12 anybody and let them go home. And we are at least on schedule  
13 if not above?

14 MR. JOFFE: Correct, Your Honor, we are ahead of  
15 schedule.

16 (Jury in at 3:03 p.m.)

17 THE COURT: Go ahead and have a seat. One of you is  
18 missing, are they still in the restroom or --

19 COURTROOM SECURITY OFFICER: I think they're in the  
20 restroom.

21 THE COURT: All right. Well, before our juror gets  
22 here, I'll -- it's probably not the worst news.

23 The Government has rested, so they have completed  
24 presenting their case. The lawyers also tell me they are ahead  
25 of the schedule we outlined at the beginning.

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1 But also that probably because of some surprise as to  
2 how quickly the Government rested, there is not a witness here  
3 this afternoon. It is Friday afternoon, so we are going to  
4 stop for the day and return Monday morning at 9:00 o'clock.

5 Leave any notes in the jury room. As you know, it is  
6 particularly important not to talk about the case.

7 There was a news story the other day, it wasn't on  
8 this case, it was another case, but they made mention of this  
9 case, so if you see anything -- and I don't know that there  
10 would be anything, but anything about this type of case, just  
11 avoid it if it happens to appear in the news.

12 And so we will see you Monday. I'm hoping Genny  
13 finds our lost juror.

14 (Pause in proceedings.)

15 THE COURT: I tell you what, we will give that juror  
16 the same instruction when they get back. I don't want to keep  
17 all of you all sitting here.

18 THE JUROR: We are good.

19 THE COURT: All right, we will wait a second.

20 Genny mentioned that one of you had a child with a  
21 school appointment, write me about note that for whatever date  
22 it is.

23 (Pause in proceedings.)

24 THE COURT: Well, I think they have been using the  
25 restroom upstairs, too.

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1 (Juror entered the proceedings at 3:08 p.m.)

2 THE COURT: Well, we cut your break short, but it is  
3 not all bad news. The Government rested, the lawyers tell me  
4 we are -- at least that we are on schedule, ahead of schedule.  
5 There is not a witness here this afternoon, so we are going to  
6 stop early today and the Defense will begin presenting its case  
7 Monday morning at 9:00 o'clock.

8 Leave any notes in the jury room. It is real  
9 important not to talk about the case, as you know. Have a  
10 great weekend, we will see you Monday morning, 9:00 o'clock.

11 COURTROOM SECURITY OFFICER: All rise.

12 (The jury retired from the courtroom at 3:09 p.m.)

13 THE COURT: Have a seat, if you would like.

14 MR. JOFFE: May I proceed, Your Honor?

15 THE COURT: Do you want to wait for your client?

16 MR. JOFFE: Yes. The Government has already rested  
17 on the record, correct?

18 THE COURT: Yes, they did.

19 MR. JOFFE: Okay. This is probably a critical stage  
20 of the proceedings, he ought to be here.

21 THE COURT: I usually wait for the Defendant, I know  
22 it is not a uniform procedure.

23 (Pause in the proceedings.)

24 THE COURT: Okay. I think everybody is here.

25 MR. JOFFE: May I proceed, Your Honor?

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1 THE COURT: Sure.

2 MR. JOFFE: Your Honor, on behalf of Mr. Arman  
3 Abovyan, myself and Howard Schumacher would renew any and all  
4 objections made throughout the course of this trial. We also  
5 renew any and all motions made either pretrial or during the  
6 course of this trial.

7 I would also move under Federal Rule of Criminal  
8 Procedure 29A for a judgment of acquittal, and would initially  
9 state that the Government has failed to prove, even in the  
10 light most favorable to the Government, that Arman Abovyan, as  
11 charged, has not yet been identified by anyone in this case  
12 either, that as early as December 2015 through December 2016,  
13 that Mr. Abovyan, along with Ms. Barbuto, did knowingly and  
14 willfully combine, conspire, confederate and agree with each  
15 other and others to violate Title 18, United States Code  
16 Section 1347; that is in connection with the delivery of and  
17 payment for healthcare benefits. And to execute a -- I'm  
18 paraphrasing -- and attempt to execute a scheme and artifice to  
19 defraud healthcare benefit programs and obtain by means of  
20 materially false and fraudulent pretenses, representations and  
21 promises any of the money and property owned by and under the  
22 custody and control of healthcare benefit programs as defined  
23 by Title 18, U.S. Code Section 24(b).

24 And initially, Your Honor, I would state that there  
25 simply is no evidence that Dr. Abovyan conspired with

1 Ms. Barbuto, nor with any other individuals to defraud the  
2 insurance companies vis-a-vis their healthcare benefit programs  
3 in any sense whatsoever.

4           There is no testimony as well as to jurisdiction in  
5 this case, nor is there testimony as to the identity of  
6 Mr. Abovyan. But there is simply no evidence that Dr. Abovyan  
7 intended to defraud any healthcare benefit program.

8           We heard testimony from Ms. LaFrance, who testified  
9 that she was specifically instructed by Mr. Chatman to falsify  
10 the -- not only to duplicate hundreds, if not thousands of the  
11 request forms for urine, but also to check off the boxes for  
12 the panels that would pay the most money to the facility.

13           I believe she also testified that she did not -- she  
14 never notified Dr. Abovyan as to what she was doing, she was  
15 only doing what she was instructed to do by Mr. Chatman -- by  
16 Mr. Chatman, and I think the Government will probably argue  
17 that Dr. Abovyan was an integral cog in the system; and  
18 therefore, knew or should have known or he was willfully blind,  
19 et cetera, as to that fact. We disagree.

20           In terms of obtaining by means of materially false  
21 and fraudulent pretenses, it is our position, Judge, there  
22 simply has been no evidence that Dr. Abovyan -- that there was  
23 false or fraudulent pretenses presented by himself. He was  
24 gainfully employed, he was paid to be there, he was there, he  
25 had nurse practitioners employed that were working there. And



1 in term of using fraudulent pretenses to try and obtain money  
2 and property from the insurance companies, there is simply --  
3 the nexus is not there that would connect Dr. Abovyan to that.

4 Should I wait for the Government to respond to this?

5 THE COURT: No, let's go ahead --

6 MR. JOFFE: All right.

7 THE COURT: -- and cover your grounds.

8 MR. JOFFE: Certainly.

9 And Judge, I would also again, as to count two, the  
10 same 29A motion, the Government has alleged that from as early  
11 as July 20th, 2016 through December 30th, 2016, in Palm Beach  
12 and Broward Counties, that Dr. Abovyan and Ms. Barbuto  
13 conspired to distribute, possess with intent to distribute and  
14 dispense, outside the scope of professional practice and not  
15 for a legitimate medical purpose, a controlled substance.

16 Clearly, as this relates -- and I know there are  
17 other parts here, but as it relates to the storage unit where,  
18 you know, the pill bottles were found where the majority of  
19 those pills had been prescribed by Dr. Abovyan, to connect  
20 Dr. Abovyan somehow because of Ms. Barbuto's mental health  
21 issues, where she would just take all of the garage to that  
22 facility and dump it in there on a daily basis, to say that  
23 somehow Dr. Abovyan conspired with her to distribute and  
24 possess with the intent to distribute and dispense, it's so  
25 farfetched, there simply is no evidence of that whatsoever.

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1           There is just no connection between Dr. Abovyan and  
2 the items that were found in that storage unit, other than the  
3 fact that he wrote the prescriptions. And clearly  
4 Ms. Barbuto -- whatever was going on with the pills at the  
5 facility, when they were tossed in the garage, which  
6 Dr. Abovyan would have no knowledge of whatsoever, she was  
7 picking up the garage.

8           There was testimony from the agent on cross about --  
9 I don't know, a half eaten bagel and clearly there was garbage  
10 in there and, you know, Ms. Barbuto has already pled guilty and  
11 part of it is diminished capacity, so she clearly had severe  
12 mental health issues.

13           And Judge, as to count three, on or about July 20th,  
14 2016, the Government has alleged that in Broward County, that  
15 Dr. Abovyan and Ms. Barbuto did knowingly and intentionally  
16 distribute and dispense, outside the scope of professional  
17 practice and not for a legitimate medical purpose, a controlled  
18 substance to patient one, and our position would be, Judge,  
19 that Dr. Abovyan was prescribing the Suboxone, and if I'm  
20 incorrect the Government, I'm certain, will correct me, for  
21 proximately 56 days before he obtained his X license.

22 Dr. Abovyan's intent was certainly not to defraud anyone, it  
23 certainly was not the intent to distribute and dispense outside  
24 the scope of professional practice.

25           Dr. Abovyan was a licensed medical doctor, he had his

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1 DEA power number, he had the ability to prescribe any and all  
2 medications that were available to him in this particular case.  
3 The only thing he didn't have was the eight hour online course  
4 and the X license that is granted at a period of time after he  
5 takes the exam.

6 I believe Dr. Abovyan took the exam within four weeks  
7 of being at the Reflections facility. There is some, you know,  
8 scuttlebutt that someone else took the exam for him, but  
9 clearly there certainly is no proof of that at this juncture,  
10 just conjecture. And it is our position that clearly it was  
11 for a legitimate medical purpose vis-a-vis Suboxone, and that  
12 Suboxone saves lives and the Suboxone was necessary and  
13 relevant to the patients in this particular case.

14 As to count four, the Government has alleged that on  
15 or about July 25th, 2016, in Broward County, Florida, that  
16 Dr. Abovyan and Ms. Barbuto again did knowingly and  
17 intentionally distribute and dispense, outside the scope of  
18 professional practice and not for a legitimate medical purpose,  
19 a controlled substance to patient number two, and again, I  
20 would have the same argument as to the prior count.

21 Judge, as to count five, the allegations are also on  
22 July 25th, 2016, again, that Dr. Abovyan, along with  
23 Ms. Barbuto, did knowingly and intentionally distribute and  
24 dispense, outside the scope of professional practice and not  
25 for a legitimate medical purpose, a controlled substance to

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1 patient number three.

2 Well, clearly, it was in the scope of Dr. Abovyan's  
3 professional practice. For one to say that it was outside the  
4 scope of professional practice just because he didn't have the  
5 X license, I don't think that that is supported by the facts at  
6 this stage.

7 And clearly, it was for a legitimate medical purpose.  
8 You know, Dr. Abovyan came into this facility -- granted, he  
9 wasn't certified as an addiction specialist, he was an  
10 internist; he had practiced for seven or eight years and had no  
11 problems, had an active practice, his license had never been  
12 suspended, and no complaints, et cetera, was doing a good job.

13 Obviously, it is the Government's position that  
14 Suboxone is this deadly drug that, you know, you have to take  
15 this eight hour class -- an eight hour class just to be able to  
16 prescribe Suboxone. I understand there is training, but this  
17 is a licensed --

18 THE COURT: Basically, you say the Government. I  
19 mean Congress is the one that apparently wrote this law, didn't  
20 they? Is it just --

21 MR. JOFFE: What I'm saying, Judge --

22 THE COURT: I guess I could do something for a  
23 legitimate -- I could try to help somebody, save somebody's  
24 life by giving them some medicine, but I don't have a doctor's  
25 license. I guess your position is that doesn't make a

1 difference.

2 I mean, he either has one or he doesn't. He knew he  
3 needed it, according to the evidence, discussed the fact that  
4 they were hiring him because he needed it, and he didn't have  
5 it yet and he went ahead and prescribed the medicine. That  
6 seems like those are at least the facts that if the jury  
7 concluded that, they could convict him.

8 MR. JOFFE: Well, Judge, in terms of --

9 THE COURT: I guess your argument seems to be it  
10 wasn't that long, basically.

11 MR. JOFFE: Well, that's -- no, it goes beyond that,  
12 Judge. What I'm also saying is that -- that it was -- that it  
13 was within the scope of his professional practice as a licensed  
14 medical doctor. He did, in fact, have a DEA power number, he  
15 had the ability to prescribe medications that were much more  
16 serious, much more deadly, much more severe, much more  
17 complicated and convoluted in terms of -- and analyzing the  
18 patient's condition and the types of medications that were  
19 being provided.

20 That is really my argument, Judge. I mean, I mention  
21 the issue of time because I think it's an eight hour online  
22 course and a license, but -- so that's part of it, but also it  
23 says not for a legitimate medical purpose and clearly it was  
24 for a legitimate medical purpose.

25 You know, for us to say -- or to say, Well, just

1 because he didn't have the X license, therefore, there was no  
2 legitimate medical purpose, I think there was and I think the  
3 evidence supports that, especially based upon the fact that  
4 this population at this facility, they are all drug addicts and  
5 they all historically had been prescribed Suboxone at some  
6 point, and this was continuation of care for them.

7 Judge, I would also move as to count seven for a  
8 judgment of acquittal under Rule 29A. The Government has  
9 alleged that on or about August 3rd, 2016, in Broward County,  
10 Florida, that Dr. Abovyan and Ms. Barbuto again did knowingly  
11 and intentionally distribute and dispense, outside the scope of  
12 professional practice and not for a legitimate medical purpose,  
13 a controlled substance to patient five.

14 I have the same argument for that as well, Your  
15 Honor, in terms of that it was medically necessary and it was,  
16 in fact, within the parameters of his professional practice.

17 Judge, I would have the same argument as to count  
18 eight, that on or about August 29th, 2016 in Broward County,  
19 Florida, that Dr. Abovyan and Ms. Barbuto again did knowingly  
20 and intentionally distribute, dispense, outside the scope --

21 Am I speaking too fast?

22 -- of professional practice and not for a legitimate  
23 medical purpose, a controlled substance to patient number two.

24 Judge, I would have the same argument as to count  
25 nine for patient number six, Judge. And as to count ten --

1 excuse me, this deals with other types of medications that  
2 Dr. Abovyan theoretically would have possessed with the intent  
3 to distribute, and clearly Dr. Abovyan was licensed as a  
4 medical doctor to prescribe these medications.

5 And to charge a medical doctor with knowingly and  
6 intentional possession with intent to distribute a controlled  
7 substance which he is lawfully entitled to prescribe in and of  
8 itself is problematic.

9 I know that part of this talks about the  
10 buprenorphine, which is essentially Suboxone, and I would have  
11 the same argument as to that.

12 And that's my argument. I believe there is a  
13 criminal forfeiture allegation, but I don't think we are there  
14 yet.

15 THE COURT: Okay.

16 MR. JOFFE: Thank you, Judge.

17 THE COURT: Let me ask -- I need some more  
18 information on count ten, I don't think I understand your  
19 theory on count ten.

20 MS. VILLAFANA: Thank you, Your Honor.

21 So with regard to count ten, we are relying for the  
22 most part on *Pinkerton*. Ms. Barbuto and Dr. Abovyan had agreed  
23 that he would be working at Reflections and Journey to  
24 Recovery, he would be providing other people with blank  
25 prescriptions that he knew could be used to prescribe anything



1 because he signed them, and some of those --

2 THE COURT: Is that really just the physician  
3 assistants and whether or not he gave -- they are the ones that  
4 used the blank prescriptions, right?

5 MS. VILLAFANA: There was testimony from Ms. B [REDACTED]  
6 that Kenneth Chatman had presigned prescription pads in his  
7 office, and I don't want to preview my closing too much, but we  
8 will show that there were prescriptions that were written on  
9 dates that the nurse practitioners and Dr. Abovyan were not  
10 there, so that's the prescribing outside the course. And it  
11 was certainly foreseeable that Ms. Barbuto would take drugs  
12 that were unlawfully prescribed, prescribed by others, and that  
13 she would keep them.

14 There also is evidence that if Dr. Abovyan had been  
15 reviewing the lab testing, that he would have seen that people  
16 were using the prescription drugs before he issued the  
17 prescriptions. So in other words, drugs were being given from  
18 patient A to patient B, and that also is evidence of possession  
19 with intent to distribute.

20 THE COURT: All right. I'm going to reserve ruling  
21 on count ten. With respect to the other counts, there is  
22 sufficient evidence that a reasonable jury could find the  
23 Defendant guilty of those crimes. I don't fully -- I may need  
24 to hear more on count ten.

25 I don't remember, and maybe it is in there somewhere,



1 that there is some prescription that it looks like -- and there  
2 is evidence, you are correct, that Chatman had some blank  
3 prescription forms in his office, but what I didn't hear, at  
4 least, is any evidence that he issued any of these. I mean,  
5 maybe there is something in all of these documents, and they  
6 are in evidence.

7           There was testimony about some of these other drugs  
8 and how they were given to patients and sometimes -- for  
9 example, I thought there was evidence on this amphetamine, but  
10 wasn't that the physician assistants who wrote the prescription  
11 on that?

12           MS. VILLAFANA: Yes, Your Honor, there was -- there  
13 was testimony --

14           THE COURT: I mean, is your theory -- I guess they  
15 didn't have a license to write those --

16           MS. VILLAFANA: That's correct.

17           THE COURT: -- themselves.

18           MS. VILLAFANA: That's correct; and therefore, that  
19 is outside the scope of legitimate medical practice.

20           MR. JOFFE: But then they would be liable.

21           THE COURT: So would he, wouldn't he?

22           MR. JOFFE: No.

23           MR. SCHUMACHER: Judge, I think the testimony was  
24 that there was contact. I believe Ms. Callaghan said that she  
25 had contact with Dr. Abovyan and would run past him. I can't

1 say that she did it in every instance, but she did say that he  
2 was available and that she did speak with him by phone.

3 THE COURT: Sometimes, and I think that -- it  
4 certainly wasn't consistent with the medical assistants whether  
5 or not they were authorized by him and in any event, they  
6 didn't have a DEA number and couldn't write them themselves.

7 I'm not sure about ten at this point, I don't have  
8 enough information or don't understand it well enough to rule,  
9 so I'm going to reserve ruling on ten. On the others, I deny  
10 your motion.

11 What are you going to do?

12 MR. JOFFE: Right this minute?

13 THE COURT: No, Monday, starting Monday morning.  
14 Probably you will go home and have a drink tonight.

15 MR. JOFFE: You know, you must be psychic, you must  
16 have heard my conversation.

17 We are going to work this case. We will have  
18 witnesses here Monday morning at 9:00 o'clock. What is  
19 problematic for me is Mr. Pullen, who is flying in from Spain,  
20 he has purchased tickets, he comes in Tuesday.

21 THE COURT: Who is he?

22 MR. JOFFE: He is the KIPU -- he's a computer  
23 forensic expert. He has testified in the Southern District  
24 before Judge Cohn in Fort Lauderdale and he's been qualified as  
25 an expert in computer forensics, et cetera. He's done work in

1 the Middle District as well. He lives in Miami, but he also  
2 lives in Madrid because his girlfriend is there, so he goes  
3 back and forth.

4 I have been in constant contact with him, he is there  
5 now, and he purchased the tickets yesterday because it was my  
6 understanding the Government would probably rest Tuesday in the  
7 morning, so I was unaware they would rest now.

8 Phil Shechter, the certified public accountant, is  
9 prepared and ready to testify, I just need to make sure he is  
10 available Monday morning. I'll reach out to him now and tell  
11 him he needs to be here, and we will have some other witnesses  
12 we can put on as well. I don't know that we will have a full  
13 day.

14 In terms of Dr. Starr, Dr. Starr is in California and  
15 we will communicate with him when we leave here to see how  
16 quickly he can get here. He may be able to come in Sunday and  
17 we could put him on Monday or Tuesday.

18 THE COURT: So you are going to call Pullen and  
19 Shechter and Starr, is that it?

20 MR. JOFFE: And I believe Dr. Greene, we have, who is  
21 also out in California, and we have been sending him the  
22 transcripts and everything, you know, that have been generated  
23 during the course of this trial, so he can take a look at those  
24 things.

25 We are still waiting for the remainder of the

Friday, November 30, 2018.

1 transcript of the Government's expert, and I'm told by the  
2 court reporter I will have that Sunday. She is being extremely  
3 diligent in getting that prepared, it is voluminous and I  
4 believe we may have two or three more witnesses we can bring in  
5 Monday morning and have them testify as well.

6 THE COURT: Well, you need to fill up the day --

7 MR. JOFFE: I know.

8 THE COURT: -- and move forward. Is your client  
9 going to testify, do you know yet?

10 MR. SCHUMACHER: He is not, Judge. We have discussed  
11 it with him. If the Court wishes to make inquiry with him --

12 THE COURT: No, I don't unless the lawyers ask me to.  
13 I know you all are good lawyers and talked to him, so I don't  
14 do that inquiry unless the defense lawyers ask me to.

15 MR. SCHUMACHER: Judge, I would just like to add to  
16 Mr. Joffe, Your Honor, one of the issues that we are having,  
17 particularly with the doctors, as I mentioned to you as part of  
18 our original motion to continue this matter, was because  
19 initially, we expected this trial to go, as the Court is  
20 aware -- I think the order was that the Government would put on  
21 their case within ten days, thereafter --

22 THE COURT: I said six and a half. When we had  
23 Barbuto, I think I said more.

24 MR. SCHUMACHER: That's what I'm saying, Judge.  
25 Initially when we had spoken to our experts, particularly the

1 physicians, they were of the expectation that they would be  
2 reached not even next week, but the week following, so they  
3 both have very busy practices.

4 We have obviously communicated that it was then  
5 expected to be shorter and they could expect to be on the stand  
6 Tuesday or earlier because six and a half days would have put  
7 that sometime on Tuesday.

8 Now with the Government resting today, that's even  
9 moving them even more forward, Your Honor, so we are  
10 endeavoring to get them here as quickly as possible, but --

11 THE COURT: Well, I mean, you all are paying these  
12 guys, they need to -- experts need to meet the schedule. I'm  
13 sure you told them that when you signed them up --

14 MR. SCHUMACHER: Yes, sir.

15 THE COURT: -- so they need to be here because once  
16 we start, we don't want to waste the jury's time, we need to  
17 move forward.

18 MR. SCHUMACHER: Yes, Your Honor.

19 THE COURT: Okay. Anything else today, before we  
20 come back Monday morning?

21 MS. VILLAFANA: Just if we are going to get any  
22 expert reports, we would like to get them before the experts  
23 testify.

24 MR. JOFFE: Judge, I believe I provided Mr. Pullen's  
25 report to the Government, and in terms of --

1 THE COURT: Are there reports? I saw some curriculum  
2 vitae from you.

3 I saw Judge Ungaro got affirmed for striking experts,  
4 did you all see that this last week? Apparently defense just  
5 gave them curriculum vitae and didn't tell them the details of  
6 the testimony.

7 MR. SCHUMACHER: We also gave summaries, Your Honor.

8 MR. JOFFE: We provided summaries as well as the CVs,  
9 Your Honor, and Mr. Pullen is the only one who has generated a  
10 report.

11 MS. CHASE: The report is more like a summary, Your  
12 Honor, for Mr. Pullen.

13 THE COURT: Well, I'm just commenting because I don't  
14 have anything before me, but if you owe them anything, you  
15 ought to get it to them.

16 MR. JOFFE: Yes, Judge, and I have been speaking to  
17 Ms. Chase as well to make sure that they have confirmed that  
18 she has gotten the CVs, that she has the explanation of what  
19 they will testify about, that they have what we received from  
20 Dr. Pullen.

21 I don't think we will call Dr. Quiroga, the  
22 neuropsychologist. She has not drafted a report either, so we  
23 are.

24 THE COURT: Okay. Anything else today?

25 MS. VILLAFANA: No.

1 THE COURT: Have a good weekend.

2 MS. VILLAFANA: Thank you.

3 THE COURT: See you at 9:00 on Monday.

4 (PROCEEDINGS ADJOURNED AT 3:48 P.M.)

5

6 **C-E-R-T-I-F-I-C-A-T-E**

7 I hereby certify that the foregoing is  
8 an accurate transcription and proceedings in the  
9 above-entitled matter.

10

**12/21/2018**

11

DATE

**/s/DIANE MILLER**

12

DIANE MILLER, RMR, CRR, CRC  
Official Court Reporter  
United States District Court  
701 Clematis Street, Room 259  
West Palm Beach, FL 33401  
561-514-3728

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Friday, November 30, 2018.



BY MR. JOFFE: [21] 17/23 19/3 25/25 27/15 31/1 32/9 32/12 32/15 33/19 34/3 35/25 36/7 38/19 39/17 40/1 41/15 80/5 82/9 83/17 85/10 87/21 BY MR. SCHUMACHER: [27] 60/20 61/12 61/18 69/9 69/14 105/1 108/7 109/1 109/11 109/17 110/12 110/17 110/22 111/3 111/21 137/1 140/1 150/21 156/5 161/6 162/24 163/8 163/15 197/2 201/25 207/23 210/7 BY MS. CHASE: [16] 6/3 6/24 7/10 8/9 9/24 10/18 11/7 12/1 13/18 14/6 16/19 42/15 71/22 72/4 94/14 95/2 BY MS. VILLAFANA: [37] 49/5 56/19 57/8 57/24 58/7 58/23 59/9 95/20 102/6 102/23 103/24 112/16 113/17 118/12 120/25 128/4 129/22 130/7 134/6 136/16 164/5 165/15 166/10 167/20 168/7 171/4 172/4 172/17 181/14 181/22 182/10 184/11 190/19 193/22 194/8 215/15 217/19 COURTROOM SECURITY OFFICER: [6] 71/8 155/14 172/15 222/16 224/18 226/10 MR. JOFFE: [72] 7/18 8/5 9/18 11/2 11/22 11/25 13/24 14/1 16/10 16/13 16/16 17/21 19/1 27/13 30/24 32/8 39/13 39/16 39/22 39/24 41/13 42/10 44/4 71/2 71/5 71/11 87/16 94/8 94/25 102/4 113/2 118/7 120/23 127/23 130/4 134/3 168/4 171/14 182/3 182/6 222/22 223/9 223/11 223/14 223/16 223/23 224/2 224/4 224/6 224/8 224/13 226/13 226/15 226/18 226/24 227/1 229/5 229/7 232/20 233/7 233/10 235/15 237/19 237/21 238/11 238/14 238/21 239/19 240/6 241/23 242/7 242/15 MR. SCHUMACHER: [54] 39/23 44/2 56/12 57/6 57/21 57/23 58/19 59/7 61/10 61/16 70/20 71/4 102/20 102/22 103/21 108/24 109/6 109/10 109/15 110/20 112/12 136/13 136/24 155/11 155/18 155/23 156/3 161/3 163/13 164/1 165/11 166/3 171/20 182/4 184/7 190/15 193/20 193/25 196/15 196/22 196/25 201/22 207/21 210/6 215/9 215/11 217/17 237/22 240/9 240/14 240/23 241/13 241/17 242/6 MS. CHASE: [41] 5/24 6/22 7/16 7/21 7/25 8/7 8/25 9/21 10/25 11/5 11/24 13/22 16/14 17/18 25/23 32/6 32/11 33/17 33/22 35/24 36/3 38/17 39/11 39/20 41/10 42/13 43/14 43/17 44/7 44/10 71/1 71/18 79/25 80/2 82/7 83/15 85/8 94/12 95/6 120/24 242/10 MS. VILLAFANA: [59] 48/22 56/18 57/22 58/6 60/17 69/7 69/12 70/22 95/11 104/24 108/4 109/4 110/1 110/15 110/19 110/25 111/19 112/14 113/6 113/9 118/11 127/24 130/2 136/22 150/19 160/25 162/21 163/4 164/3 165/18 165/21 166/5 168/2 171/12 171/17 171/23 172/2 172/10	172/16 181/13 182/1 182/8 184/10 194/1 196/20 196/24 207/20 215/13 222/6 222/9 223/19 235/19 236/4 237/11 237/15 237/17 241/20 242/24 243/1 THE COURT: [164] 4/1 4/3 6/23 7/19 7/22 8/3 8/6 9/2 9/20 9/22 11/3 13/25 14/3 16/17 17/20 19/2 25/24 27/14 30/25 32/7 32/14 33/18 33/23 36/4 38/18 39/12 39/14 39/21 41/11 42/12 43/15 44/1 44/5 44/9 56/14 56/16 57/7 58/4 58/21 59/8 60/18 61/11 61/17 69/8 69/13 70/21 70/24 71/3 71/6 71/10 71/14 71/16 72/1 80/1 80/3 82/8 83/16 85/9 94/11 95/1 95/8 102/5 102/21 103/22 108/6 109/7 109/16 110/3 110/7 110/16 111/2 111/20 112/13 113/3 113/7 118/8 130/5 134/4 136/14 136/23 150/20 155/10 155/12 155/16 155/19 155/22 155/24 156/1 161/1 162/23 163/5 163/14 164/2 165/13 165/19 168/5 171/15 171/21 171/25 172/9 172/11 182/7 184/8 190/17 193/21 194/3 196/17 201/24 215/10 215/12 217/18 222/7 222/11 222/18 223/7 223/10 223/12 223/15 223/17 224/1 224/3 224/5 224/7 224/9 224/16 224/20 225/14 225/18 225/23 226/1 226/12 226/14 226/17 226/20 226/23 226/25 229/4 229/6 232/17 232/21 233/8 235/14 235/16 236/1 236/19 237/13 237/16 237/20 238/2 238/12 238/20 239/17 240/5 240/7 240/11 240/21 241/10 241/14 241/18 241/25 242/12 242/23 242/25 243/2 THE JUROR: [1] 225/17 THE JURY: [1] 139/25 THE WITNESS: [17] 7/24 16/11 36/6 49/2 56/15 58/22 72/3 87/17 94/10 95/9 95/17 108/25 110/9 113/14 166/1 171/19 194/6	\$3,136,561.26 [2] 13/5 31/19 \$3.1 [1] 32/4 \$3.1 million [1] 32/4 \$350 [1] 127/3 \$5,000 [9] 124/23 126/14 126/16 126/23 128/10 131/22 132/1 132/3 165/8 \$5,500 [1] 131/14 \$6,030,195.63 [1] 8/22 \$663,000 [1] 29/24 \$663,053.84 [1] 15/10 \$70,000 [1] 34/25 \$73,600 [1] 34/13 \$950 [2] 127/20 128/13 '15 [1] 30/1 '16 [3] 30/1 30/16 31/25 '17 [4] 30/16 31/25 41/1 41/4 '18 [2] 30/16 31/25 / /s/DIANE [1] 243/10 1 10 [7] 46/21 77/21 77/23 77/24 174/15 174/20 185/13 10,500 [1] 126/11 100 [8] 96/12 122/1 197/25 199/9 201/11 211/25 212/20 217/12 104 [1] 29/11 105 [1] 2/20 10:30 [1] 71/10 10:39 [1] 71/13 10:45 [3] 71/8 71/14 71/16 10th [8] 182/15 185/1 185/8 191/3 197/8 198/23 200/17 207/12 11 [4] 14/17 46/25 175/9 175/12 110 [1] 1/16 112 [1] 2/21 113 [1] 3/3 1147 [1] 60/12 1148 [1] 60/13 1149 [1] 58/3 117 [2] 54/22 57/23 11:00 [3] 128/18 128/21 129/13 11th [3] 157/14 157/15 186/12 12 [18] 47/8 167/14 167/15 167/16 167/20 167/22 168/4 168/6 168/7 176/25 177/1 177/6 181/11 198/6 198/6 203/9 218/15 218/17 12/21/2018 [1] 243/10 12:29 [2] 155/16 155/21 12:30 [1] 155/13 12th [3] 131/11 191/9 191/19 13 [16] 47/21 64/24 170/25 171/1 171/2 171/4 171/14 171/16 171/17 173/22 175/3 177/12 177/16 177/24 178/7 178/19 1334 [1] 188/19 1347 [1] 227/16 137 [1] 3/4 138 [3] 12/13 12/15 12/17 14 [1] 48/1 14th [4] 130/17 131/6 157/18 180/14 15 [8] 48/1 48/6 71/4 71/7 196/7 196/8 222/13 223/9
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